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TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

PART 723—CIGAR-FILLER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

PROCLAMATION OF NATIONAL MARKETING QUOTAS FOR 1954–55 MARKETING YEAR AND APPORTIONMENT OF QUOTAS AMONG THE SEVERAL STATES

Sec.

AUTHORITY: §§ 723.501 to 723.503 issued under sec. 375, 52 Stat. 66, 7 U. S. C. 1375. Interpret or apply secs. 301, 312, 313, 52 Stat. 38, as amended; 7 U. S. C. 1301, 1312, 1313.

§ 723.501 *Basis and purpose.* (a) Sections 723.501 to 723.503 are issued to announce the reserve supply level and the total supply of cigar-filler tobacco and cigar-filler and cigar-binder tobacco (exclusive of type 46 which has been designated (15 F. R. 8214) as a separate kind of tobacco) for the marketing year beginning October 1, 1953, to establish the amounts of the national marketing quotas for cigar-filler tobacco and cigar-filler and cigar-binder tobacco for the marketing year beginning October 1, 1954, and to apportion the quotas among the several States. The findings and determinations by the Secretary contained in §§ 723.502 and 723.503 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from cigar-filler tobacco and cigar-filler and cigar-binder tobacco producers and others as provided in a notice (18 F R. 5391) given in accordance with the Administrative Procedure Act (5 U. S. C. 1003)

(b) Since the Agricultural Adjustment Act of 1938, as amended, requires the holding of a referendum of tobacco producers within 30 days after the issuance of a proclamation of the national marketing quota to determine whether such producers favor marketing quotas and requires, insofar as practical, the mailing of notices of farm acreage allotments to farm operators prior to the date of the referendum, it is hereby found that compliance with the 30-day effective date provision of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest. Therefore, the proclamation and apportionment of the national marketing quotas contained herein shall become effective upon the date of filing with the FEDERAL REGISTER.

§ 723.502 *Findings and determinations with respect to the national marketing quota for cigar-filler tobacco for the marketing year beginning October 1, 1954*[1]—(a) *Reserve supply level.* The reserve supply level for cigar-filler tobacco is 143,200,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 49,000,000 pounds and a normal year's exports of 1,000,000 pounds.

(b) *Total supply.* The total supply of cigar-filler tobacco for the marketing year beginning October 1, 1953, is 152,900,000 pounds consisting of carry-over of 118,000,000 pounds and estimated 1953 production of 34,900,000 pounds.

(c) *Carry-over* The estimated carry-over of cigar-filler tobacco at the beginning of the marketing year for such tobacco beginning October 1, 1954, is 102,400,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1953, of 50,500,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-filler tobacco which will make available during the marketing year beginning October 1, 1954, a supply of cigar-filler tobacco equal to the reserve supply level of such tobacco is 40,800,000 pounds and a national marketing quota of such amount is hereby proclaimed. It is determined, however, that a national marketing quota in the amount of 40,800,000 pounds would be inadequate to meet market demands during the 1954–55 marketing year and such amount is hereby increased by 15 percent. Therefore, the amount of the

[1] Rounded to the nearest tenth of a million pounds.

(Continued on p. 6445)

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

national marketing quota for cigar-filler tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1954, is 46,900,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota proclaimed in paragraph (d) of this section is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

State:	Acreage allotment
Kentucky	22
Maryland	7
Pennsylvania	29,926
Reserve[1]	303

[1] Acreage reserved for establishing allotments for farms upon which no cigar-filler tobacco has been grown during the past five years.

§ 723.503 *Findings and determinations with respect to the national marketing quota for cigar-filler and cigar-binder tobacco for the marketing year beginning October 1, 1954*[1]—(a) *Reserve supply level.* The reserve supply level for cigar-filler and cigar-binder tobacco (exclusive of type 46 which has been designated (15 F. R. 8214) as a separate kind of tobacco) is 201,600,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 68,000,000 pounds and a normal year's exports of 3,000,000 pounds.

(b) *Total supply.* The total supply of cigar-filler and cigar-binder tobacco (exclusive of type 46) for the marketing year beginning October 1, 1953, is 204,600,000 pounds consisting of carry-over of 149,500,000 pounds and estimated 1953 production of 55,100,000 pounds.

(c) *Carry-over.* The estimated carry-over of cigar-filler and cigar-binder tobacco (exclusive of type 46) at the beginning of the marketing year for such tobacco beginning October 1, 1954, is 133,800,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1953, of 70,800,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of cigar-filler and cigar-binder tobacco (exclusive of type 46) which will make available during the marketing year beginning October 1, 1954, a supply of cigar-filler and cigar-binder tobacco equal to the reserve supply level of such tobacco is 67,800,000 pounds, and a national marketing quota of such amount is hereby proclaimed. It is determined, however, that a national marketing quota in the amount of 67,800,000 pounds would be inadequate to meet market demands during the 1954–55 marketing year and such amount is hereby increased by 10 percent. Therefore, the amount of the national marketing quota for cigar-filler and cigar-binder tobacco (exclusive of type 46) in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1954, is 74,600,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota proclaimed in paragraph (d) of this section is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

[1] Rounded to the nearest tenth of a million pounds.

State:	Acreage Allotment
Connecticut	11,927
Illinois	9
Indiana	2
Iowa	10
Massachusetts	5,929
Minnesota	367
New Hampshire	7
New York	363
Ohio	6,951
Pennsylvania	506
Vermont	8
Wisconsin	21,889
Reserve[1]	484

[1] Acreage reserved for establishing allotments for farms upon which no cigar-filler and cigar-binder tobacco has been grown during the past five years.

Done at Washington, D. C., this 7th day of October 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EZRA TAFT BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-8660; Filed, Oct. 9, 1953; 8:50 a. m.]

[1026 (Maryland-53)-1, Amdt. 1]

PART 727—MARYLAND TOBACCO

MARYLAND TOBACCO MARKETING QUOTA REGULATIONS, 1953–54 MARKETING YEAR

The amendment herein is based on the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, applicable to tobacco (7 U. S. C. 1311–1314), and is made for the purpose of amending § 727.445 of the Maryland Tobacco Marketing Quota Regulations, 1953–54 Marketing Year (18 F. R. 4273), to include the actual rate of penalty per pound upon marketings of excess tobacco subject to marketing quotas. The official average price for Maryland tobacco for the 1952–53 marketing year has recently been determined. The act provides that the penalty rate on marketings of excess tobacco shall be forty (40) percent of the average market price (calculated to the nearest whole cent) for the preceding marketing year.

The 1953 crop of Maryland tobacco is now being harvested and a few sales have been made, and it is necessary that the amendment set forth herein be made effective at the earliest possible date in order that the rate of penalty may be made known to producers who desire to market tobacco and to warehousemen and buyers who are responsible for payment of the penalty on marketings of excess tobacco. Also, since the amendment is the result of a mere mathematical calculation required by the act, it is hereby determined and found that compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act (5 U. S. C. 1003) is impracticable and contrary to the public interest, and the amendment contained herein shall be effective upon filing of this document with the Director, Division of the Federal Register.

Paragraph (a) of § 727.445 of the Maryland Tobacco Marketing Quota

Regulations, 1953–54 Marketing Year (18 F. R. 4273) is hereby amended to read as follows:

(a) The penalty per pound upon marketings of excess tobacco subject to marketing quotas shall be twenty (20) cents per pound.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies sec. 314, 52 Stat. 48, as amended; 7 U. S. C. 1314)

Done at Washington, D. C., this 7th day of October 1953. Witness my hand and seal of the Department of Agriculture.

[SEAL] JOHN H. DAVIS,
Assistant Secretary of Agriculture.

[F. R. Doc. 53-8662; Filed, Oct. 9, 1953; 8:51 a. m.]

PART 727—MARYLAND TOBACCO

PROCLAMATION OF THE NATIONAL MARKETING QUOTA FOR 1954–55 MARKETING YEAR AND APPORTIONMENT OF QUOTA AMONG THE SEVERAL STATES

Sec.
727.501 Basis and purpose.
727.502 Findings and determinations with respect to the national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1954.

AUTHORITY: §§ 727.501 and 727.502 issued under sec. 375, 52 Stat. 66 as amended; 7 U. S. C. 1375. Interprets or applies secs 301, 312, 313, 52 Stat. 38, as amended; 7 U. S. C. 1301, 1312, 1313; Pub. Law 464, 82d Cong.

§ 727.501 *Basis and purpose.* (a) (1) Sections 727.501 and 727.502 are issued to announce the reserve supply level and the total supply of Maryland tobacco for the marketing year beginning October 1, 1953, to establish the amount of the national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1954, and to apportion the quota among the several States.

(2) The findings and determinations by the Secretary contained in § 727.502 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from Maryland tobacco producers and others as provided in a notice (18 F. R. 5391) given in accordance with the Administrative Procedure Act (5 U. S. C. 1003).

(b) Since the Agricultural Adjustment Act of 1938, as amended, requires the holding of a referendum of tobacco producers within 3 days after the issuance of the proclamation of the national marketing quota to determine whether such producers favor marketing quotas and requires, insofar as practicable, the mailing of notices of farm acreage allotments to farm operators prior to the date of the referendum, it is hereby found that compliance with the 30-day effective date provision of the Administrative Procedure Act is impractical and contrary to the public interest. Therefore, the proclamation and apportionment of the quota contained herein shall become effective upon the date of filing with the FEDERAL REGISTER.

§ 727.502 *Findings and determinations with respect to the national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1954* [1]—(a) *Reserve supply level.* The reserve supply level for Maryland tobacco is 100,500,000 pounds, calculated, as provided in the Agricultural Adjustment Act of 1938, as amended, from a normal year's domestic consumption of 30,000,000 pounds and a normal year's exports of 8,000,000 pounds.

(b) *Total supply.* The total supply of Maryland tobacco for the marketing year beginning October 1, 1953, is 105,600,000 pounds consisting of carry-over of 68,000,000 pounds and estimated 1953 production of 37,600,000 pounds.

(c) *Carry-over.* The estimated carry-over of Maryland tobacco on January 1, 1955, is 66,600,000 pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1953, of 39,000,000 pounds from the total supply of such tobacco.

(d) *National marketing quota.* The amount of Maryland tobacco which will make available during the marketing year, beginning October 1, 1954, a supply of Maryland tobacco equal to the reserve supply level of such tobacco is 33,900,000 pounds, and a national marketing quota of such amount is hereby proclaimed. It is determined, however, that a national marketing quota in the amount of 33,900,000 pounds would be inadequate to meet market demands during the 1954–55 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Maryland tobacco in terms of the total quantity of tobacco which may be marketed during the marketing year beginning October 1, 1954 is 40,700,000 pounds.

(e) *Apportionment of the quota.* The national marketing quota proclaimed in paragraph (d) of this section is hereby apportioned among the several States pursuant to section 313 (a) of the Agricultural Adjustment Act of 1938, as amended, and converted into State acreage allotments in accordance with section 313 (g) of the act as follows:

State	Acreage allotment
Maryland	51,367
Virginia	23
Kentucky	43
North Carolina	5
Tennessee	18
Reserve [1]	259

[1] Acreage reserved for establishing allotments for farms upon which no Maryland tobacco has been grown during the past five years.

Done at Washington, D. C., this 7th day of October 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EZRA TAFT BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-8663; Filed, Oct. 9, 1953; 8:51 a. m.]

[1] Rounded to the nearest tenth of a million pounds.

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Orange Reg. 240]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.637 *Orange Regulation 240*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time, and good cause exists for making the provisions of this section effective not later than October 12, 1953. Shipments of oranges, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, and will so continue until October 12, 1953; the recommendation and supporting information for continued regulation subsequent to October 11 was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 2, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time of this section, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges; and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., October 12, 1953, and ending at 12:01 a. m., e. s. t., October 19, 1953, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in the State of Florida, which do not grade at least U. S. No. 1 Russet; or

(ii) Any oranges, except Temple oranges, grown in the State of Florida, which are of a size smaller than 2 19/64 inches in diameter, measured midway at a right angle to a straight line running from the stem to the blossom end of the fruit, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Florida Oranges (§ 51.302 of this title; 17 F. R. 7879): *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2 19/64 inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2 11/64 inches in diameter and smaller.

(2) As used in this section, the terms "handler," "ship," and "Growers Administrative Committee" shall each have the same meaning as when used in said amended marketing agreement and order; and the term "U. S. No. 1 Russet" shall have the same meaning as when used in the revised United States Standards for Florida Oranges (§ 51.302 of this title; 17 F. R. 7879).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 7th day of October 1953.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-8569; Filed, Oct. 9, 1953; 8:53 a. m.]

[Lemon Reg. 506]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.613 *Lemon Regulation 506*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on October 7, 1953, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time of this section.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., October 11, 1953, and ending at 12:01 a. m., P. s. t., October 18, 1953, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 225 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached to Lemon Regulation 505 (18 F. R. 6331) and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2," and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U S C. and Sup. 608c)

Done at Washington, D. C., this 8th day of October 1953.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-8706; Filed, Oct. 9, 1953; 8:56 a .m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICES

MISCELLANEOUS AMENDMENTS

Effective upon publication in the FEDERAL REGISTER, § 6.138 (a) is revoked, paragraph (g) (1) is added to § 6.113, paragraph (d) (4) is added to § 6.302, and paragraphs (b) through (i) are added to § 6.338.

§ 6.113 *Department of Labor.* • • •

(g) *Government Contract Committee.* (1) All positions on the staff of the Government Contract Committee established by Executive Order 10479 of August 13, 1953.

§ 6.302 *Department of State.* • • •

(d) *Office of Assistant Secretary for Public Affairs.* • • •

(4) Director, Unesco Relations Staff.

§ 6.338 *National Labor Relations Board.* • • •

(b) One Solicitor.

(c) One Chief Legal Assistant to each Board Member.

(d) One Confidential Assistant to each Board Member.

(e) One Associate General Counsel, Division of Operations.

(f) One Associate General Counsel, Division of Law.

(g) One Associate General Counsel, Division of Policies and Appeals.

(h) One Special Assistant to the General Counsel.

(i) One Confidential Assistant to the General Counsel.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F R. Doc. 53-8654; Filed, Oct. 9, 1953; 8:49 a. m.]

Chapter III—Foreign and Territorial Compensation

Subchapter B—The Secretary of State

[Dept Reg. 108.195]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts* is amended as follows, effective as of the beginning of the first pay period following October 10, 1953:

1. Paragraph (a) is amended by the deletion of the following post:

Taipei, China.

2 Paragraph (b) is amended by the deletion of the following post:

Puerto la Cruz, Venezuela.

3. Paragraph (d) is amended by the deletion of the following post:

Maracaibo, Venezuela
Tegucigalpa, Honduras.

4. Paragraph (b) is amended by the addition of the following post:

Taipei, China.

5. Paragraph (c) is amended by the addition of the following post:

Puerto la Cruz, Venezuela.

6. Paragraph (d) is amended by the addition of the following post:

Port Lyautey, Morocco.

(Sec. 102, Part I, E. O. 10000, Sept. 16, 1948, 13 F. R. 5453; 3 CFR, 1948 Supp.)

For the Secretary of State.

DONALD B. LOURIE,
Under Secretary for Administration.

OCTOBER 1, 1953.

[F. R. Doc. 53-8643; Filed, Oct. 9, 1953; 8:46 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Reg. No. SR-398]

PART 3—AIRPLANE AIRWORTHINESS; NORMAL, UTILITY, AND ACROBATIC CATEGORIES

PART 4a—AIRPLANE AIRWORTHINESS

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

SPECIAL CIVIL AIR REGULATION; BASIS FOR APPROVAL OF MODIFICATION OF AIRPLANE TYPES DOUGLAS DC-3 AND LOCKHEED L-18

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of October 1953.

The Douglas DC-3 and the Lockheed L-18 airplane types were originally designed and certificated on the basis of airworthiness standards in effect prior to 1940. These were contained in Bulletin 7-A promulgated by the former Bureau of Air Commerce and in the initial Part 04 of the Civil Air Regulations which was basically a recodification of Bulletin 7-A. Subsequently the Civil Aeronautics Board has promulgated and kept up-to-date newer airworthiness requirements contained in Parts 3, 4a, and 4b of the Civil Air Regulations, the latter two parts containing rules for Transport Category airplane. The DC-3 and the L-18 are the only large airplane types now in general use in the United States which retain the old standards as a basis for their certification.

For a number of years after the initial certification of these two airplane types relatively few important design changes were introduced, and the airplane specifications regarding maximum certificated weights remained practically unchanged. More recently, however, several operators have made significant design changes in DC-3 and L-18 airplanes and it has become apparent that with the continued use of these airplanes, more operators are considering design changes, such as the installation of higher powered engines and increases in maximum certificated weights. Although the basis for certification of these airplanes remained unchanged, the Administrator of Civil Aeronautics in some instances made changes to the pertinent airplane specifications by applying certain provisions of Part 4a of the Civil Air Regulations to these airplanes. The Board does not consider Bulletin 7-A and the early versions of Part 04 adequate regulatory bases upon which further modifications to these airplane types can be approved by the Administrator. Therefore the Board is adopting rules which are considered necessary for uniform application of future design changes to the DC-3 and L-18.

This Special Civil Air Regulation establishes the basis for approval by the Administrator of modifications of individual DC-3 and L-18 airplanes subsequent to the effective date of this regulation. Provision is also made to permit the Administrator to waive the requirements of this regulation if a particular airplane was in the process of modification at the time this regulation became effective and it can be shown that undue hardship would result by reason of this regulation becoming effective prior to completion of the modification.

In general this regulation requires that modification of DC-3 and L-18 airplanes be accomplished in accordance with the provisions of either Part 4a or Part 4b of the Civil Air Regulations applicable to the modification being made and in effect on September 1, 1953, unless the applicant elects to make the modification in accordance with Part 4b as in effect on the date of modification. In this regard the regulation requires that in electing to perform a modification under either Part 4a or Part 4b, each specific modification must be accomplished in accordance with all of the provisions of either Part 4a or Part 4b related to the particular modification and does not permit selection of certain provisions of Part 4a and other provisions of Part 4b. For example, if it were desired to make a modification of the landing gear, it could be made under either Part 4a or Part 4b, but not partially under Part 4a and partially under Part 4b. This also applies when the applicant elects to make a modification in accordance with the provisions of Part 4b in effect on the date of modification in lieu of Part 4a or Part 4b as in effect on September 1, 1953.

In addition to the general provisions for modification, this regulation provides specific requirements with respect to approval of increases in take-off power limitation and the installation of engines of larger displacement in DC-3 and L-18 airplanes. The intent of these specific requirements is to insure that such changes will not result in a decrease in safety. This is in general consistent with the policy followed by the Administrator in approving changes made prior to the adoption of this rule.

In the case of an increase in the take-off power limitation beyond 1,200 horsepower per engine but not to exceed 1,350 horsepower per engine, this regulation requires that the increase in power shall not adversely affect the flight characteristics of the airplane. The intent of this provision is to permit increases in take-off power limitation only if the applicant can show that the use of the applied for increase in power does not result in deterioration of the flight characteristics of the airplane when compared to those characteristics prior to the applied for increase. With respect to the installation of engines, this regulation establishes either Part 4a or Part 4b as the basis for approving the installation of engines not exceeding 1,830 cubic inches displacement necessitating major modification or redesign of the engine installation, except that the engine installation with respect to engine fire prevention and protection must neither increase the danger of engine fire nor decrease the protection in the event of engine fire when compared to the engine installation as it existed prior to the applied for change.

This regulation also permits the establishment of new maximum certificated weights not to exceed 26,900 pounds for the DC-3 and 19,500 pounds for the L-18. Where new maximum weights are desired, the airworthiness certificate shall be amended and the maximum weights established in accordance with the transport category performance requirements of either Part 4a or Part 4b, subject to the structural limitations of the airplane. It is also required, as a basis for approval of new maximum certificated weights, that the applicant provide flight manual material containing information which will enable application of the performance operating limitations in the operation of the airplane. At the present time the Civil Air Regulations require compliance with performance operating limitations only when engaged in the carriage of passengers as an air carrier or commercial operator. However, the Board is giving consideration to the desirability of establishing performance operating limitations for other types of operations. In the meantime, the Board recommends that operators, whose airplanes have been approved for increased weights by reason of this regulation, make use of this performance information to aid in assuring safety in their operations.

It should be noted that this regulation does not provide for the increase in take-off power limitation above 1,350 horsepower per engine, the installation of engines of greater than 1,830 cubic inches displacement, or the establishment of maximum certificated weights greater than 26,900 pounds for the DC-3 and 19,500 pounds for the L-18. These matters are the subject of additional rule making and a notice of proposed rule making will be issued subsequent to the adoption of this regulation proposing rules applicable to these areas.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation effective November 11, 1953.

1. *Applicability.* Contrary provisions of the Civil Air Regulations regarding

certification notwithstanding,[1] this regulation shall provide the basis for approval by the Administrator of modifications of individual Douglas DC–3 and Lockheed L–18 airplanes subsequent to the effective date of this regulation: *Provided*, That if an applicant shows that a particular airplane was in the process of modification on the effective date of this regulation and that the applicant would suffer undue hardship by reason of this regulation becoming effective prior to completion of the modification, the Administrator is authorized to waive the requirements of this regulation with respect to that modification: *And provided further*, That this regulation shall not apply to applications for the increase in take-off power limitation in excess of 1,350 horsepower per engine, the installation of engines with a displacement greater than 1,830 cubic inches, and the establishment of new maximum certificated weights in excess of 26,900 pounds for the DC–3 and 19,500 pounds for the L–18.

2. *General modifications.* Except as provided in sections 3 and 4 of this regulation, an applicant for approval of modifications to a DC–3 or L–18 airplane which result in changes in design or in changes to approved limitations shall show that the modifications were accomplished in accordance with the rules of either Part 4a or Part 4b of the Civil Air Regulations effective September 1, 1953, applicable to the modification being made: *Provided*, That the applicant may elect to accomplish modifications in accordance with the rules of Part 4b in effect on the date of modification in lieu of Part 4a or Part 4b as in effect on September 1, 1953: *And provided further*, That in electing to accomplish modifications in accordance with Part 4a or Part 4b in effect on September 1, 1953, or Part 4b in effect on the date of modification, each specific modification must be accomplished in accordance with all of the provisions contained in the elected rules relating to the particular modification.

3. *Specific conditions for approval.* An applicant for approval of any one of the following specific changes to DC–3 or L–18 airplanes shall show that the change was made in accordance with either Part 4a or Part 4b except as modified by the provisions of this section.

(a) *Increase in take-off power limitation—1,200 to 1,350 horsepower.* The engine take-off power limitation may be increased beyond 1,200 horsepower but not to exceed 1,350 horsepower per engine, if the increase in power does not adversely affect the flight characteristics of the airplane.

(b) *Engine installation—1,830 cubic inches displacement or less.* Engines of not more than 1,830 cubic inches displacement necessitating a major modification or redesign of the engine installation may be installed, if the engine fire prevention and fire protection is equivalent to that on the prior engine installation.

4. *Establishment of new maximum certificated weights.* An applicant for approval of new maximum certificated weights for either a DC–3 or L–18 airplane shall apply for amendment of the airworthiness certificate of the airplane and shall show that the weights sought have been established and the appropriate manual material obtained as provided in this section. (Note: Transport category performance requirements result in the establishment of maximum certificated weights for various altitudes.)

(a) *Weights—25,200 to 26,900 for the DC–3 and 18,500 to 19,500 for the L–18.* New maximum certificated weights above 25,200 but not to exceed 26,900 pounds for the DC–3 and above 18,500 but not to exceed 19,500 pounds for the L–18 airplanes may be established in accordance with the transport category performance requirements of either Part 4a or Part 4b of the Civil Air Regulations, if the airplane at the new maximum weights can meet the structural requirements of either Part 4a or Part 4b of the Civil Air Regulations.

(b) *Airplane flight manual; performance operating information.* An approved airplane flight manual shall be provided for each DC–3 and L–18 airplane which has had new maximum certificated weights established under this section. The airplane flight manual shall contain the applicable performance information prescribed in that part of the regulations under which the new certificated weight was established and such additional information as may be necessary to enable the application of the take-off, en route, and landing limitations prescribed for transport category airplanes in the operating parts of the Civil Air Regulations.

5. *References.* Unless otherwise provided, all references in this regulation to Parts 4a and 4b of the Civil Air Regulations are those parts in effect on September 1, 1953.

NOTE: Parts 4a and 4b as amended and in effect on September 1, 1953, were published in the FEDERAL REGISTER at the following citations: Part 4a, 14 F. R. 4072, 14 F. R. 3743, 14 F. R. 6769, 15 F. R. 28, 17 F. R. 11631. Part 4b, 15 F. R. 3543, 15 F. R. 8903, 15 F. R. 9184, 16 F. R. 314, 16 F. R. 11759, 16 F. R. 12220, 17 F. R. 1087, 17 F. R. 11631, 18 F. R. 2213.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 52 Stat. 1007, 1009, as amended; 49 U. S. C. 551, 553)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 53-8670; Filed, Oct. 9, 1953; 8:53 a. m.]

[1] It is not intended to waive compliance with such airworthiness requirements as are included in the operating parts of the Civil Air Regulations for specific types of operation.

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[6th Gen. Rev. of Export Regs., Amdt. P. L. 57[1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are added to the Positive List:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar-value limits	Validated license required
220904	Cinchona bark [4]	Lb.	DRUG	100	RO
722040	Jacks, with lifting capacity of 10 tons and over, and specially fabricated parts, n. e. c. [4]	----------	CONS 8	50	RO
	Industrial manufacturing and service-industries machines, n. e. c., and specially fabricated parts, n. e. c. (specify by name)				
775998	Jacks, power, n. e. c., with lifting capacity of 10 tons and over, and specially fabricated parts, n. e. c. [4]	----------	CONS 8	50	RO
	WATERCRAFT [2] [3]				
	Merchant ships (excluding converted military watercraft) [5]				
795100	Passenger ships, of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO
795115	Barges, of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO
795117	Tankers, of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO
795120	Cargo ships, except barges and tankers, of U. S. registry, for scrapping (specify gross registered tonnage) (specify type) [5]	No.	STEE	None	RO
795125	Tugs and towboats, of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO
795130	Dredges, of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO
795135	Merchant ships, n. e. c. of U. S. registry, for scrapping (specify gross registered tonnage) [5]	No.	STEE	None	RO

[1] These commodities are exportable under the Foreign Distribution (FD) license (see Part 378 of this subchapter).

[2] All vessels of U. S. registry, except vessels of war, require approval from OIT for scrapping abroad, whether such vessels are located in the U. S. or in foreign waters at the time the decision is made to scrap the vessel or, if the vessel is located in foreign waters, to sell it for scrapping. See § 373.53 of the CES of this subchapter.

[3] See § 370.4 of this subchapter for types of watercraft requiring export authorization from Maritime Administration and State Department.

[4] Includes hulls.

[5] These commodities are subject to IC/DV requirements (see § 373.2 of this subchapter), effective November 16, 1953.

[1] This amendment was published in Current Export Bulletin No. 715, dated October 1, 1953.

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar-value limits	Validated license required
	WATERCRAFT [2] [4]—Continued				
795140	Fishing and small commercial watercraft (excluding converted military watercraft), of U. S. registry, for scrapping (specify gross registered tonnage).[5]	No.	STEE	None	RO
795150	Recreational watercraft (excluding converted military watercraft), of U. S. registry, for scrapping (specify gross registered tonnage).[5]	No.	STEE	None	RO
	Other industrial chemicals:				
839900	Red phosphorous [6]	----------	SALT 65	100	RO

Footnotes 2–5 on page 6449.

[6] By this amendment the 27th entry on the Positive List under Schedule B No. 839900 is revised to read as follows: "Phosphorous, including red." The Periodic Requirements (PRL) license (see Part 376 of this subchapter) and Foreign Distribution (FD) license (see Part 378 of this subchapter) are made available for phosphorous, including red; and effective November 16, 1953, red phosphorous is subject to the IC/DV procedure (see § 373.2 of this subchapter).

This part of the amendment shall become effective as of 12:01 a. m., October 8, 1953, except that with respect to Schedule B numbers 795100 through 795150 it shall become effective as of 12:01 a. m., October 1, 1953.

2. The following commodities are deleted from the Positive List:

Dept. of Commerce Schedule B No.	Commodity
	Tools (all metals), n. e. c.:
615450	Hacksaw blades, power.
	Ammonium compounds, except fertilizers (report fertilizers and fertilizer materials in 850500–855100):
	Ammonium compounds, n. e. c. (specify by name):
838500	Ammonium sulfate.
	Nitrogenous fertilizer materials (report nitrogenous phosphatic types in 854100, 854900):
	Nitrogenous chemical materials:
850500	Ammonium sulfate.

This part of the amendment shall become effective as of October 1, 1953.

3. The following revisions are made in commodity descriptions. These revisions include changes in GLV dollar-value limits where specified:

Dept. of Commerce Schedule B No.	Commodity	Unit	Processing code and related commodity group	GLV dollar-value limits	Validated license required
	Specialized mining machines and equipment, n. e. c., and parts, n. e. c.:				
	Specialized mining machines and equipment, n. e. c., and specially fabricated parts and accessories, n. e. c. (specify by name):				
730810	Jacks, with lifting capacity of 10 tons and over, and specially fabricated parts, n. e. c.[1]	----------	CONS 8	50	RO
794960	Jacks, with lifting capacity of 10 tons and over, and specially fabricated parts, n. e. c.[2]	----------	CONS 8	50	RO
	Explosives:				
862500	Safety fuses (except non-detonating blasting fuses containing only a black powder core).[3]	Lin. ft.	ORGN 1	10	RO

[1] The above entry is added separately to the Positive List under Schedule B No. 730810. This commodity is presently included on the Positive List in the second and last entries under Schedule B No. 730810. The effect of this revision is (1) to reduce the GLV dollar-value limit from $100 to $50; (2) to extend the controls from R to RO; (3) to change the processing code from MINE to CONS 8; and (4) to make available for this commodity the Foreign Distribution (FD) license (see Part 378 of this subchapter).

[2] The above entry is added separately to the Positive List under Schedule B No. 794960. This commodity is presently included on the Positive List in the last entry under Schedule B No. 794960. The effect of this revision is (1) to reduce the GLV dollar-value limit from $100 to $50, (2) to extend the controls from R to RO; (3) to change the processing code from TRAN to CONS 8; and (4) to make available for this commodity the Foreign Distribution (FD) license (see Part 378 of this subchapter).

[3] The above entry is substituted for the entry presently on the Positive List under Schedule B No. 862500. The effect of this revision is to clarify the coverage, and is effective immediately.

This part of the amendment shall become effective as of October 8, 1953, except as otherwise indicated.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations as a result of changes set forth in items 1 and 3 of this amendment, except Schedule B Nos. 795100 through 795150, which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a. m., October 8, 1953, may be exported under the previous general license provisions up to and including October 31, 1953. Any such shipment not laden aboard the exporting carrier on or before October 31, 1953, requires a validated license for export.

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat 62; 50 U. S. C. App. Sup 2023 E. O 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Office of International Trade.

[F. R. Doc. 53-8592; Filed, Oct. 9, 1953; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T. D. 6043]

REFERENCES TO CERTAIN OFFICERS IN REGULATIONS, RETURNS, ETC.

DEPUTY COLLECTOR

Treasury Decision 5900, approved May 13, 1952 (17 F. R. 4464), and Treasury Decision 5901, approved May 15, 1952 (17 F. R. 4561), are hereby amended by striking "reference to a deputy collector shall be deemed to refer to an internal revenue agent" from subdivision (b) of the first paragraph of each and inserting in lieu thereof the following: "reference to a deputy collector shall be deemed to refer to an internal revenue agent, except that after September 30, 1953, reference to a deputy collector shall be deemed to refer to a collection officer."

Because the sole purpose of this Treasury decision is to conform Treasury Decisions 5900 and 5901, and the documents amended by such Treasury decisions, to the revision of the titles of certain employees of the Internal Revenue Service, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitations of section 4 (c) of that act.

This Treasury decision shall be effective upon its filing for publication in the FEDERAL REGISTER.

(53 Stat. 375, 467; 26 U. S. C. 3176, 3791)

[SEAL] JUSTIN P. WINKLE,
Acting Commissioner of Internal Revenue.

SEPTEMBER 30, 1953.

Approved: October 6, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-8658; Filed, Oct. 9, 1953; 8:50 a. m.]

Subchapter C—Miscellaneous Excise Taxes

[T. D. 6044; Regs. 29]

PART 197—DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN THE MANUFACTURE OF NONBEVERAGE PRODUCTS

MISCELLANEOUS AMENDMENTS

SEPTEMBER 30, 1953.

Section 3250 (1) (5) of the Internal Revenue Code was amended by Public Law 283 (83d Cong.), to read as follows:

SEC 3250 *Tax.* • • •

(1) Manufacturers or producers of designated nonbeverage products. • • •

• • • • • •

(5) *Drawback.* In the case of distilled spirits taxpaid and used as provided in this subsection, a drawback shall be allowed—

(A) At the rate of $6 on each proof gallon upon which tax is paid at a rate of $9 per proof gallon prior to the effective date of section 462 of the Revenue Act of 1951.

(B) At the rate of $9.50 on each proof gallon upon which tax is paid at a rate

of $10.50 per proof gallon on and after the effective date of section 462 of the Revenue Act of 1951, and

(C) At the rate of $8 on each proof gallon upon which tax is paid at a rate of $9 per proof gallon after March 31, 1954.

Such drawback shall be due and payable quarterly upon filing of a proper claim with the Secretary; except that, where any person entitled to such drawback shall elect in writing to file monthly claims therefor, such drawback shall be due and payable monthly upon filing of a proper claim with the Secretary: *Provided, however* That the Secretary may require persons electing to file monthly drawback claims to file with him a bond or other security in such amount and with such conditions as he shall by regulations prescribe. Any such election may be revoked upon filing of notice thereof with the Secretary. No claim under this subsection shall be allowed unless filed with the Secretary within the three months next succeeding the quarter in which the distilled spirits covered by the claim were used as provided in this subsection.

* * * * *

In order to conform Regulations 29 (26 CFR Part 197) to such amendment, and to conform the regulations to the delegation to Assistant Regional Commissioners, Alcohol and Tobacco Tax, of final authority for allowance or disallowance of drawback claims, such regulations are amended as follows:

PARAGRAPH 1. Section 197.21 is amended to read as follows:

§ 197.21 *Claims.* The claim for drawback shall be filed on Form 843, (original only) with the Assistant Regional Commissioner, for the region in which the place of manufacture is located, and shall pertain only to distilled spirits used in the manufacture or production of nonbeverage products during any one quarter of the year, and only one claim may be filed for each quarter: *Provided,* That where the manufacturer has notified the Assistant Regional Commissioner, in writing, of his intention to file claims on a monthly basis, in lieu of a quarterly basis, and has filed a bond in compliance with the provisions of § 197.21a, claims may be filed monthly in lieu of quarterly: *Provided further* That any such election for the filing of monthly claims may be revoked upon filing of notice thereof, in writing, with the Assistant Regional Commissioner.

PAR. 2. There is inserted immediately following § 197.21 the following new section:

§ 197.21a *Bond, Form 1730.* Every person desiring to file claims for drawback on a monthly basis shall, upon filing his notice of such intention as provided in § 197.21, execute a bond on Form 1730, in triplicate, in conformity with the provisions of §§ 197.35 through 197.50, and file the same with the Assistant Regional Commissioner. The penal sum of the bond must be sufficient to cover the amount of drawback which will, during any quarterly period, constitute a charge against the bond: *Provided,* That the penal sum of any bond shall not exceed $200,000 nor be less than $1,000. The bond shall be a continuing one, and the liability thereof subject to increase as successive monthly claims are allowed thereunder and to decrease as the verifications of such monthly claims are made. When the limit of liability under a bond given in less than the maximum penal sum has been reached, no further drawback on monthly claims will be allowed unless prior charges against the bond have been decreased, or a new, or additional, bond in sufficient penal sum is furnished.

PAR. 3. Section 197.22 is amended to read as follows:

§ 197.22 *Date of filing claim.* Quarterly claims for drawback must be filed with the Assistant Regional Commissioner within the three months next succeeding the quarter in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products. Monthly claims for drawback may be filed at any time after the end of the month in which the distilled spirits covered by the claim were used in the manufacture of nonbeverage products, but must be filed not later than the close of the third month succeeding the quarter in which such spirits were used.

PAR. 4. Section 197.24 is amended as follows:

(A) By striking the phrase "which shall be prepared in duplicate" in the first sentence thereof.

(B) By striking the second sentence, which begins "One copy shall be"

(C) By striking the word "collection" in subparagraph (5) of paragraph (a) and inserting in lieu thereof the following: "internal revenue"

(D) By striking the words "Deputy Commissioner" wherever they appear in subparagraphs (3) and (4) of paragraph (c) and inserting in lieu thereof the following: "Director"

(E) By striking the phrase "American Institute of Homeopathy" in subparagraph (3) of paragraph (c) and inserting in lieu thereof the following: "Homeopathic Pharmacopoeia of the United States"

(F) By striking the phrase "A. I. H.," in subparagraph (3) of paragraph (c) and inserting in lieu thereof the following: "H. P. U. S.,"

(G) By striking the word "quarter" wherever it appears in subparagraphs (1) (2) and (3) of paragraph (d) and inserting in lieu thereof the word "period"

(H) By striking the word "quarter" wherever it appears in paragraph (e) and inserting in lieu thereof the word "period"

PAR. 5. Section 197.25 and headnote are amended to read as follows:

§ 197.25 *Action on quarterly claims.* The Assistant Regional Commissioner will date-stamp the claim and, after recording, will examine the claim for the purpose of determining whether it is properly executed and that all supporting data have been submitted and will conduct such inquiries and investigations as may be necessary to verify that drawback is allowable on the distilled spirits covered by the claim. After completion of such verification he will allow or disallow the claim in accordance with his findings and existing law and regulations.

PAR. 6. There is inserted immediately following § 197.25 the following new section:

§ 197.25a *Action on monthly claims.* The Assistant Regional Commissioner will date-stamp the claim and, after recording, will examine the claim for the purpose of determining whether it is properly executed and that all required supporting data have been submitted. Where a bond in the maximum penal sum or, if less than such maximum, in a sufficient penal sum, is on file, the Assistant Regional Commissioner will verify that the amount of drawback claimed is correctly calculated, based on the quantity of distilled spirits stated to have been used by the manufacturer, and, without investigation, allow or disallow the claim (including the final claim for any quarter) in accordance with existing law and regulations. Where the bond on file is not in a sufficient penal sum, action on the claim will be withheld pending completion of an investigation subsequent to the end of the quarterly period. When the final claim for a quarter is received, the Assistant Regional Commissioner will conduct such investigation as may be necessary to verify, as to each claim filed for the quarter, that the drawback allowed, or claimed where bond was insufficient, was proper: *Provided,* That where the total charges outstanding against the manufacturer's bond are less than the penal sum of such bond, the Assistant Regional Commissioner may, at his discretion, conduct such investigation at less frequent intervals. Upon completion of verification the Assistant Regional Commissioner will credit the manufacturer's bond in an amount equal to the drawback on the spirits found to have been lawfully used.

(53 Stat. 467; 26 U. S. C. 3791. Interpret or apply 53 Stat. 388, as amended, 495; 26 U. S. C. 3250, 4041)

PAR. 7. There is inserted at the end thereof the following centerheads and groups of sections:

BONDS AND CONSENTS OF SURETIES

TERMINATION OF BONDS

AUTHORITY: §§ 197.35 to 197.57 issued under 53 Stat. 467; 26 U. S. C. 3791. Interpret or

apply 53 Stat. 388, as amended, 495; 26 U. S. C. 3250, 4041.

BONDS AND CONSENTS OF SURETIES

§ 197.35 *General.* Every person required to file a bond or consent of surety under the provisions of this part shall prepare and execute it on the prescribed form, in triplicate, in accordance with the provisions in this part and the instructions printed on the form, and shall submit it to the Assistant Regional Commissioner. The bonds required by the provisions in this part shall be given with surety or collateral security. The surety may be individual or corporate. The surety may not have any interest, either direct or indirect, in the business of the principal on the bond.

§ 197.36 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356, Commissioner of Accounts, Surety Bonds Branch, which is issued annually, and subject to such amendatory circulars as may be issued from time to time. A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided,* That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.

§ 197.37 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, Assistant Regional Commissioners. Powers of attorney or other evidence of appointment of agents and officers to execute bonds on behalf of the principal, must be filed on Form 1534, in triplicate, with the Assistant Regional Commissioner with whom the bond is filed.

§ 197.38 *Individual sureties.* Bonds may be given with individual sureties of which there must be not less than two, each of whom must qualify by executing Form 33 (AT) in triplicate. Individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.

§ 197.39 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. Such real property must be located within the State where the business of the principal is to be conducted. The real property must be described in the surety's affidavit, Form 33 (AT) with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.

§ 197.40 *Execution of Form 33 (AT).* The surety's affidavit on Form 33 (AT) shall contain all of the information required by this part and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.

§ 197.41 *Certificate of title.* There must be submitted with the surety's affidavit, Form 33 (AT) a certificate of title, in triplicate, showing that the surety has a fee simple title free of encumbrances to the realty described in the form: *Provided,* That where recognized by the laws of the State in which the realty is located, there may be submitted, in lieu of a certificate of title, a document of comparable validity, such as a certified copy of a title insurance policy or a certificate of search and finding executed by an authorized attorney.

§ 197.42 *Appraisal.* There will also be submitted with Form 33 (AT) an appraisal, in triplicate, by two or more competent persons, designated by the Assistant Regional Commissioner for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.

§ 197.43 *Investigation.* The Assistant Regional Commissioner must cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 (AT) and supporting documents, and shall forward one copy of the report of such investigation to the Commissioner with the bond and accompanying Form 33 (AT)

§ 197.44 *Requalification.* The Commissioner or Assistant Regional Commissioner may at any time require the requalification of individual sureties on Form 33 (AT)

§ 197.45 *Deposit of collateral.* Except as provided in this section, bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties. Assistant Regional Commissioners on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities as required by Department Circular No. 154, revised (31 CFR Part 225) United States Savings, Defense Savings, and War Savings Bonds issued under the authority of section 22 of the Second Liberty Bond Act, as amended, and other bonds and notes of the United States, which are nontransferable or the hypothecation of which will not be recognized by the Treasury Department, may not be pledged and deposited as security in lieu of corporate or individual sureties.

(Sec. 1126, 44 Stat. 122 as amended, sec. 7, 49 Stat. 22; 6 U. S. C. 15)

§ 197.46 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533, in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate Assistant Regional Commissioner, or the consent may be executed by the home office officials of such corporate surety· except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, order its execution. A copy of such specific direction should be attached to each copy of such consent.

§ 197.47 *Approval required.* No person using distilled spirits in the manufacture of nonbeverage products may file monthly claim for drawback under the provisions of this part until bond on Form 1730 has been approved by the Assistant Regional Commissioner.

§ 197.48 *Authority to approve.* Assistant Regional Commissioners are authorized to approve all bonds and consents of surety required by this part.

§ 197.49 *Additional or strengthening bonds.* In all cases where the penal sum of a bond on file and in effect is not sufficient, computed as prescribed by this part, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, shall not be construed in any sense to be substitute bonds, and the Assistant Regional Commissioner will refuse to approve an additional or strengthening bond where any notation is made thereon which may be construed as a release of any former bond or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond," as the case may be.

§ 197.50 *New or superseding bonds.* The principal on any bond filed pursuant to this part may, at any time, substitute a new bond therefor. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Commissioner or the Assistant Regional Commissioner, the interests of the Government demand it or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. A new bond shall be required immediately in case of death, removal from the State, or insolvency of an individual surety, or the insolvency of a corporate surety. Where a bond is found to be not acceptable or for any reason becomes invalid or of no effect, the principal shall be required to file immediately a new and satisfactory bond. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by the obligors at the time of execution, "Superseding Bond." Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, the superseded bond shall be released as to transactions occurring wholly subsequent to the effective date of the superseding bond and notice of termination of the superseded bond may be issued as provided in § 197.55.

§ 197.51 *Account with drawback bond.* The Assistant Regional Commissioner will keep an account with each bond governing the allowance of drawback on a monthly basis. The principal will be charged with the amount of drawback allowed on each monthly claim. Credit will be given on the account with the bond in the amount equal to the drawback found by audit and investigation to be allowable, under the provisions of this part.

TERMINATION OF BONDS

§ 197.52 *General.* Continuing bonds on Form 1730 will be terminated by the Assistant Regional Commissioner as to liability on drawback allowed after a specified future date (a) pursuant to a notice by the surety as provided in § 197.53, (b) following approval of a superseding bond, as provided in § 197.50, or (c) following notification by the principal of his intent to discontinue the filing of claims on a monthly basis: *Provided,* That the bond will not be terminated until all outsanding liability thereunder has been discharged. Upon termination, the Assistant Regional Commissioner will mark the bond "canceled" followed by the date of cancellation, and will issue a notice of termination, Form 1490, or a notice of release, Form 1491, as provided in § 197.56.

§ 197.53 *Application of surety for release from bond.* A surety on any bond required by this part may at any time, in writing, notify the Assistant Regional Commissioner in whose office the bond is on file, and the principal, that he desires to be relieved of liability under the bond at a date not less than 60 days after the date of the notification. One copy of the notice must be delivered to the principal and two copies shall be delivered to the Assistant Regional Commissioner. If the notice is given by an agent of the surety it must be accompanied by a power of attorney authorizing the agent to give such notice, or by a verified statement that such power of attorney is on file with the Treasury Department. The surety must also file with the Assistant Regional Commissioner an acknowledgment or other proof of service of such notice on the principal.

§ 197.54 *Extent of release of surety from liability under bond.* If the notice required by § 197.53 is not withdrawn thereafter in writing, the rights of the principal as supported by the said bond shall be terminated on the date named in the notice, and the surety will be relieved from liability for drawback allowed subsequent to the date named. Liability for drawback allowed prior to the date named in the surety's notice will continue until the claims for such drawback have been properly verified by the Assistant Regional Commissioner according to law and this part. Where the principal files a valid superseding bond, the surety on the bond superseded will be relieved from liability for drawback allowed wholly subsequent to the effective date of the superseding bond.

§ 197.55 *Action by Assistant Regional Commissioner.* When an application by the surety for release from bond is filed with the Assistant Regional Commissioner, or when a superseding bond has been approved, or when the principal has discontinued filing claims on a monthly basis, the Assistant Regional Commissioner will make a complete examination of records to determine whether there is any liability then due and payable, or chargeable, outstanding against the bond. If it is found that liabilities chargeable against the bond have not been paid or credited or otherwise settled, no further action will be taken until all such liabilities have been settled. If the Assistant Regional Commissioner finds that the bond may be properly terminated, he will issue notice of termination in accordance with the provisions of § 197.56.

§ 197.56 *Notice of termination.* Upon determining that the bond on Form 1730 may be terminated, the Assistant Regional Commissioner will execute a notice of termination, Form 1490, where a superseding bond has been approved, or a notice of release, Form 1491, where the principal has discontinued filing monthly claims, or where the surety has made application for release from bond as provided in § 197.53. The notice of termination or the notice of release shall be prepared in quadruplicate where there is but one surety, and in quintuplicate where there are two sureties. The Assistant Regional Commissioner will forward the original of the notice to the Commissioner, together with a copy of the surety's application, if any, furnish one copy to each obligor, and retain one copy of the notice and the surety's application, if any, on file with the bond to which it relates.

§ 197.57 *Release of collateral.* The release of collateral pledged and deposited to support bonds required by this part will be in accordance with the provisions of Department Circular No. 154, revised (31 CFR Part 225), subject to the conditions governing issuance of notices on Forms 1490 and 1491 of the termination of such bonds. When the Assistant Regional Commissioner determines that there is no outstanding liability against the bond, and has satisfied himself that the interests of the Government will not be jeopardized, the security may be released and returned to the principal.

(44 Stat. 122 as amended; 6 U. S. C. 15)

Compliance with the notice, public procedure thereon and effective date requirements of the Administrative Procedure Act, approved June 11, 1946, has been found impracticable and contrary to the public interest in connection with the issuance of these amendments, for the reason that the provisions of section 3250 (1) (5) as amended by Public Law 283 (83d Congress) are effective October 1, 1953.

These amendments will become effective October 1, 1953, except the amendment to § 197.25 which is hereby made effective July 1, 1953.

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: October 6, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-8657; Filed, Oct. 9, 1953; 8:49 a. m.]

TITLE 27—INTOXICATING LIQUORS

Chapter I—Internal Revenue Service, Department of the Treasury

REFERENCES TO CERTAIN OFFICERS IN REGULATIONS, RETURNS, ETC.

DEPUTY COLLECTORS

CROSS REFERENCE: For an amendment to Treasury Decision 5901 which affects nomenclature provided by Treasury Department orders, see Title 26, Chapter I, Treasury Decision 6043, *supra.*

TITLE 32—NATIONAL DEFENSE

Chapter IV—Joint Regulations of the Armed Forces

Subchapter E—Defense Contract Financing

REDESIGNATION

Subchapter D—Defense Contract Financing, has been redesignated and will henceforth appear as Subchapter E—Defense Contract Financing.

VAL HOGUE,
Chief, Directives Section, Office of the Administrative Secretary, Office of the Secretary of Defense.

OCTOBER 6, 1953.

[F. R. Doc. 53-8677; Filed, Oct. 9, 1953; 10:39 a. m.]

Chapter XI—National Guard and State Guard, Department of the Army

PART 1101—NATIONAL GUARD REGULATIONS

ENLISTED MEN

Correction

In F R. Doc. 53-8551, appearing at page 6379 of the issue for Wednesday, October 7, 1953, the first paragraph should read as follows:

Sections 1101.14 through 1101.20 are rescinded and the following substituted therefor:

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Defense Mobilization

[Defense Mobilization Order VII-4]

DMO VII-4—ODM POLICY GUIDANCE ON GOVERNMENT-OWNED PRODUCTION EQUIPMENT

In order to maintain a highly effective and immediately available machine tool and production equipment reserve for the mobilization readiness program of the United States Government, the Office of Defense Mobilization sets forth the following policy on Government-owned production equipment, including machine tools.

1. *Disposition of production equipment*—A. *Department of Defense.* Production equipment owned by the Department of Defense for which there exists a known or anticipated defense mobilization need should be held in efficient operating condition in "packaged form" ("packaged form" means a complete complement of production equipment and tools capable of producing a particular military item or items at a particular plant) at or near the plants which will operate them in event of an emergency. In the event no such storage arrangement is possible, the equipment may be stored in central Government warehouses, but, in such cases, all efforts should be exerted to maintain intact complete complements of production equipment and tools. In those cases in which complements of equipment are not wholly Government-owned, every effort should be made to keep as much as possible of the total equipment complement in packaged form.

Department of Defense owned tools and equipment shall not be leased for non-defense production except when plans for leasing have been submitted by the Department of Defense and approved by the Office of Defense Mobilization.

B. *Other Government agencies.* Production equipment owned by Government agencies, other than the Department of Defense, should be stored adjacent to manufacturing establishments only if there exists a known or anticipated defense mobilization need therefor at such location and if storage arrangements provide for the maintenance of the equipment in efficient operating condition. Where adjacent storage is not required to meet a known or anticipated defense mobilization need, the equipment should be placed in storage by the owning agencies under the most economical arrangements that are compatible with maintenance of the equipment in efficient operating condition.

No production equipment owned by Government agencies, other than the Department of Defense, shall be leased for non-defense production except when plans for such leasing have been prepared by the owning agencies and approved by the Office of Defense Mobilization.

2. *Scope of policy.* The policy guidance set forth herein shall relate to all Government-owned production equipment, as defined in Supplement A to DMO-18, whether or not such equipment is included in the Inventories established by DMO-18A and DMO-18B. This order is not designed to affect any existing leases of Government-owned production equipment.

3. *Reports.* Periodic reports of operations under this policy will be submitted to the Director of the Office of Defense Mobilization and made public by him.

4. This order shall take effect on October 9, 1953.

OFFICE OF DEFENSE MOBILIZATION,
ARTHUR S. FLEMMING,
Director

[F. R. Doc. 53-8671; Filed, Oct. 8, 1953; 1:16 p. m.]

Chapter XXI—Defense Rental Areas Division, Office of Defense Mobilization

[Rent Regulation 1, Amdt. 160 to Schedule A]

[Rent Regulation 2, Amdt. 158 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE A—DEFENSE-RENTAL AREAS

VIRGINIA

Effective October 13, 1953, Rent Regulation 1 and Rent Regulation 2 are amended so that the item of Schedule A indicated below reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 7th day of October 1953.

GLENWOOD J. SHERRARD,
Director,
Defense Rental Areas Division.

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
Virginia				
(343a) Quantico	A	PRINCE WILLIAM COUNTY, except the districts of Brentsville, Gainesville, and Manassas.	Jan. 1, 1951	Jan. 17, 1952

This amendment decontrols a part of the Quantico (Virginia) Defense Rental Area on the initiative of the Director, Defense Rental Areas Division, Office of Defense Mobilization, under section 204 (c) of the act.

[F. R. Doc. 53-8672; Filed, Oct. 8, 1953; 1:16 p. m.]

[Rent Regulation 3, Amdt. 150 to Schedule A]

[Rent Regulation 4, Amdt. 94 to Schedule A]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

VIRGINIA

Effective October 13, 1953, Rent Regulation 3 and Rent Regulation 4 are amended so that the item of Schedule A indicated below reads as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 7th day of October 1953.

GLENWOOD J. SHERRARD,
Director,
Defense Rental Areas Division.

Name of defense-rental area.	State	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
(343a) Quantico	Virginia	PRINCE WILLIAM COUNTY, except the districts of Brentsville, Gainesville, and Manassas.	Jan. 1, 1951	Jan. 17, 1952

This amendment decontrols a part of the Quantico (Virginia) Defense Rental Area on the initiative of the Director, Defense Rental Areas Division, Office of Defense Mobilization, under section 204 (c) of the act.

[F. R. Doc. 53-8673; Filed, Oct. 8, 1953; 1:16 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

VESSELS OPERATED BY PACIFIC MICRONESIAN LINES, INC.

CROSS REFERENCE: For promulgation of a waiver order affecting § 19.35 *Department of the Interior vessels operated by Pacific Micronesian Lines, Inc.*, see Title 46, Chapter I, Part 154, *infra*.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 917]

ALASKA

PARTIALLY REVOKING EXECUTIVE ORDERS NOS. 8344 OF FEBRUARY 10, 1940 AND 8789 OF JUNE 14, 1941

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Orders No. 8344 of February 10, 1940, and No. 8789 of June 14, 1941, reserving public lands in Alaska for certain public purposes, are hereby revoked so far as they affect the following-described lands:

KODIAK ISLAND

U. S. Survey No. 3098.
U. S. Survey No. 3099.
U. S. Survey No. 3100.
U. S. Survey No. 3101.
U. S. Survey No. 3103.
U. S. Survey No. 3104.

The tracts described aggregate 189.56 acres.

The lands released from withdrawal by this order shall not become subject to the initiation of any rights or to any disposition under the public-land laws until it is so provided by an order of classification to be issued by an authorized officer opening the lands to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, with a ninety-one day preference right period for filing such applications by veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279–284) as amended.

ORME LEWIS,
Assistant Secretary of the Interior

OCTOBER 6, 1953.

[F. R. Doc. 53-8634; Filed, Oct. 9, 1953; 8:45 a. m.]

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

Subchapter O—Regulations Applicable To Certain Vessels During Emergency

[CGFR 53-45]

PART 154—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS [1]

VESSELS OPERATED BY PACIFIC MICRONESIAN LINES, INC.

The Secretary of Defense in a letter dated September 10, 1953, recommended a general waiver of all the navigation and vessel inspection laws administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of certain vessels which are the property of or in the custody of the Department of the Interior and operated under contract by the Pacific Micronesian Lines, Inc., to furnish transportation in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports, and further recommended that the waiver order designated § 154.35, dated June 30, 1953, and published in the FEDERAL REGISTER July 9, 1953 (18 F R. 4009) be amended to include four non-self-propelled tank barges.

The purpose of the following waiver order designated § 154.35, as well as 33 CFR 19.35, is to waive the navigation and vessel inspection laws and regulations issued pursuant thereto which are administered by the United States Coast Guard to the extent necessary to permit the operation of the U. S. S. "Chicot" (AK 170), U. S. S. "Gunner's Knot" (official number 248054), U. S. S. "Errol" (AKL 4) U. S. S. "Metomkin" (AKL 7) U. S. S. "Roque" (AKL 8) and U. S. S. "Torry" (AKL 11), as well as the schooner "Frela," the schooner "Milleeta," and the survey boat "Baker" or other vessels which may be used as substitutes for these vessels and four non-self-propelled tank barges (YOGN, numbered 13, 18, 20, and 21) which are the property of or in the custody of the Department of the Interior, by the Pacific Micronesian Lines, Inc., to furnish transportation in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and the United States, including its territories and possessions, and foreign ports, until and including June 30, 1954, unless sooner terminated by proper authority, and to supersede the waiver order dated June 30, 1953, and published in the FEDERAL REGISTER July 9, 1953 (18 F. R. 4009). It is hereby found that compliance with the notice of proposed rule making, public rule making procedure thereon, and effective date requirements thereof of the Administrative Procedure Act is impracticable and contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by an order of the Acting Secretary of the Treasury, dated January 23, 1951, identified as CGFR 51-1, and published in the FEDERAL REGISTER dated January 26, 1951 (16 F. R. 731) the following waiver order is promulgated and shall be in effect to and including June 30, 1954, unless sooner terminated by proper authority, and § 154.35 is revised as follows:

§ 154.35 *Department of the Interior vessels operated by the Pacific Micronesian Lines, Inc.* (a) Pursuant to the recommendation of the Secretary of Defense in a letter dated June 26, 1953, made under the provisions of section 1 of Public Law 891, 81st Congress (64 Stat. 1120; 46 U. S. C., Sup., note prec. 1) I hereby waive in the interest of national defense compliance with the provisions of the navigation and vessel inspection laws administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of the U. S. S. "Chicot" (AK 170) U. S. S. "Gunner's Knot" (official number 248054) U. S. S. "Errol" (AKL 4) U. S. S. "Metomkin" (AKL 7) U. S. S. "Roque" (AKL 8) and U. S. S. "Torry" (AKL 11), as well as the schooner "Frela," the schooner "Milleeta," and the survey boat "Baker" or other vessels which may be used as substitutes for such vessels, which are the property or in the custody of the Department of the Interior, and operated by the Pacific Micronesian Lines, Inc., in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports, and this waiver order shall be in effect from July 1, 1953, to and including June 30, 1954, unless sooner terminated by proper authority.

(b) Pursuant to the recommendation of the Secretary of Defense in a letter dated September 10, 1953, made under the provisions of section 1 of Public Law 891, 81st Congress (64 Stat. 1120; 46 U. S. C. Sup., note prec. 1) I hereby waive in the interest of national defense compliance with the provisions of the navigation and vessel inspection laws administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of four non-self-propelled tank barges (YOGN and numbered 13, 18, 20, and 21, respectively) which are the property of or in the custody of the Department of the Interior and operated by the Pacific Micronesian Lines, Inc., in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports, and this waiver order shall be in effect from September 2, 1953, to and including June

[1] This is also codified in 33 CFR Part 19.

30, 1954, unless sooner terminated by proper authority.

(64 Stat. 1120; 46 U. S. C. Sup., note prec. 1)

Dated: October 5, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 53-8655; Filed, Oct. 9, 1953; 8:49 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 10595]

PART 1—PRACTICE AND PROCEDURE

PART 3—RADIO BROADCAST SERVICES

TIME FOR FILING APPLICATIONS FOR RENEWAL OF BROADCAST STATION LICENSES; LICENSE PERIODS OF NONCOMMERCIAL EDUCATIONAL FM BROADCAST STATIONS

Correction

In F R. Doc. 53-8370, appearing at page 6242 of the issue for Wednesday, September 30, 1953, the section designation "§ 3.320" in the third column should read "§ 1.320 *Application for renewal of license; broadcast and nonbroadcast.*"

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 721]

CORN

NOTICE OF DETERMINATIONS PERTAINING TO MARKETING QUOTAS, ACREAGE ALLOTMENTS, AND COMMERCIAL CORN-PRODUCING AREA FOR 1954 CROP

Pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301, 1322, 1327, 1328, 1329) the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1954 crop of corn, to determine and proclaim the commercial corn-producing area and the acreage allotment of corn for the calendar year 1954, and to apportion such acreage allotment among counties and farms within the commercial corn-producing area.

Section 322 of the act provides that whenever in any calendar year the Secretary determines (1) that the total supply of corn for the marketing year beginning in such calendar year will exceed the normal supply by more than 20 per centum, or (2) that the total supply of corn for the marketing year ending in such calendar year is not less than the normal supply for the marketing year so ending and that the average farm price for corn for three successive months of the marketing year so ending does not exceed 66 per centum of parity, the Secretary shall, not later than November 15 of such calendar year, proclaim such fact and marketing quotas shall be in effect in the commercial corn-producing area for the crop of corn grown in such area in the next calendar year.

Section 327 of the act requires that the Secretary, not later than February 1, 1954, ascertain and proclaim the commercial corn-producing area for the calendar year 1954.

Section 328 of the act provides that the acreage allotment of corn for any calendar year shall be that acreage in the commercial corn-producing area which, on the basis of the average yield for corn in such area during the ten calendar years immediately preceding such calendar year, adjusted for abnormal weather conditions and trends in yield, will produce an amount of corn in such area which the Secretary determines will, together with corn produced in the United States outside the commercial corn-producing area or imported, make available a supply for the marketing year beginning in such calendar year, equal to the normal supply. The Secretary is required to proclaim such acreage allotment for the 1954 crop not later than February 1, 1954.

Section 329 (a) of the act provides that the acreage allotment for corn shall be apportioned among the counties in the commercial corn-producing area on the basis of the acreage seeded for the production of corn during the ten calendar years immediately preceding the calendar year in which the apportionment is determined (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs) with adjustments for abnormal weather conditions and for trends in acreage during such period and for the promotion of soil-conservation practices, but no downward adjustment for the promotion of soil-conservation practices may exceed two per centum of the total acreage allotment which would otherwise be made to such county. Section 329 (b) of the act provides for the apportionment of the county allotment among farms within the county on the basis of tillable acreage, crop-rotation practices, type of soil, and topography.

As defined in section 301 of the act, for the purpose of these determinations, "total supply" for any marketing year is the carry-over of corn for such marketing year, plus the estimated production of corn in the United States during the calendar year in which such marketing year begins and the estimated imports of corn into the United States during such marketing year. "normal supply" for any marketing year is the estimated domestic consumption of corn for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of corn for the marketing year for which normal supply is being determined, plus ten per centum of such consumption and exports, subject to such adjustments for current trends in consumption and for unusual conditions as the Secretary deems necessary. "marketing year" for corn is the period October 1–September 30; and "commercial corn-producing area" is all counties in which the average production of corn (excluding corn used as silage) during the ten calendar years immediately preceding the calendar year for which such area is determined, after adjustment for abnormal weather conditions, is 450 bushels or more per farm and 4 bushels or more for each acre of farm land in the county, including also any county bordering on such commercial corn-producing area which (or in which there is a minor civil division which) is likely to produce 450 bushels or more per farm and 4 bushels or more per acre of farmland, and excluding any county from the area which is not likely to meet such production requirements, for the calendar year for which the area is being determined.

Section 322 of the act requires the holding of a referendum within twenty days after the date of the issuance of the proclamation of marketing quotas to determine whether farmers who would be subject to such quotas favor or oppose such quotas. Section 362 of the act requires that notices of farm acreage allotments shall insofar as practicable be mailed to the farm operators in sufficient time to be received prior to the date of the referendum. Accordingly, in the event that marketing quotas are proclaimed on the 1954 crop of corn, it will be necessary that the commercial corn-producing area and the acreage allotment for corn for the calendar year 1954 be determined and proclaimed, and the acreage allotment apportioned among counties and farms, on or about the same date on which marketing quotas are proclaimed.

Prior to making any of the foregoing determinations and proclamations with respect to the 1954 crop of corn, apportionment of the acreage allotment among counties, and the formulation of regulations for the establishment of farm acreage allotments, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Grain Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C. All written submissions must be postmarked not later than ten days after the date of publication of this notice in the FEDERAL REGISTER.

Issued at Washington, D. C., this 7th day of October 1953.

HOWARD H. GORDON,
Administrator

[F. R. Doc. 53-8665; Filed, Oct. 9, 1953; 8:51 a. m.]

[7 CFR Part 918]

[Docket No. AO 219-A2]

HANDLING OF MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended

(7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be held at the King Cotton Hotel, Memphis, Tennessee, beginning at 10:00 a. m., e. s. t., October 16, 1953, for the purpose of receiving evidence with respect to emergency and other economic conditions which relate to the handling of milk in the Memphis, Tennessee, marketing area and to the proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order regulating the handling of milk in the Memphis, Tennessee, marketing area (7 CFR 918 et seq.) These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the order regulating the handling of milk in the Memphis, Tennessee, milk marketing area have been proposed. Said proposals on which immediate action has been requested are listed as follows:

By Mid-South Milk Producers Association:

1. Amend the proviso in § 918.51 (a) to bring about a more current adjustment in the Class I price in accordance with the changes in the relationship between the volume of producer milk and Class I sales.

2. Consider the emergency economic and marketing conditions which make it necessary that immediate action be taken on the foregoing proposal.

By Dairy Branch, Production and Marketing Administration:

3. Make such changes as may be required to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

A hearing has also been proposed with respect to the definitions of producer, handler, and marketing area. Specific proposals with respect to these provisions, and any additional proposals which may be filed on or before November 1, 1953, by interested parties, will be considered at a subsequent hearing to be announced at a later date.

Copies of this notice of hearing and of the order now in effect may be procured from the Market Administrator, 198 South Main Street, Memphis 3, Tennessee, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: October 7, 1953.

[SEAL] ROY W LENNARTSON,
Assistant Administrator

[F. R. Doc. 53-8666; Filed, Oct. 9, 1953; 8:51 a. m.]

[7 CFR Part 927]

[Docket No. AO-71-A-25]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Utica Hotel, in Utica, New York on October 19, 1953, beginning at 10:00 a. m., e. s. t., for the purpose of receiving evidence with respect to the proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Following are proposed amendments listed for hearing:

1. Eliminate the use of the Boston weighted average price of cream in computing the Class III price.

2. Eliminate the use of the Chicago area price of nonfat dry milk solids and substitute the New York City price quotations for nonfat dry milk solids in computing the Class III price.

3. Eliminate the use of spray quotations for pricing Class II and Class III milk used in the manufacture of roller process nonfat dry milk solids.

4. Provide for using the same market quotations for nonfat dry milk solids and the same yield factor in computing prices both for Class II and Class III milk.

5. Provide a minus differential of 7 cents per hundredweight for milk used for milk chocolate and other candy products.

6. Provide that milk utilized for making butter be priced on the New York City price of 92-score butter less the present butter-cheese differential.

7. Amend § 927.37 to provide a separate classification for milk utilized in Cheddar, American Cheddar, Colby, Washed Curd, or Part Skim Cheddar Cheese, and amend § 927.40 to price such milk as follows: "For Class ____ milk, the price per hundredweight during each month shall be the price computed as follows: From the average of the weekly quotations during such month on the Wisconsin Cheese Exchange, Plymouth, Wisconsin, for Cheddars, exclusive of junior grades, or in the absence of such quotations for Cheddars, the weekly quotations for twins, using sales when reported, and when sales not reported, using the highest of reported bids and/or offers; subtract 3 cents and multiply the result by 9."

8. Amend § 927.40 (f) to read as follows:

(f) For Class III milk, the price shall be the highest of the prices specified by, or computed pursuant to, subparagraphs (1) (2) and (3) of this paragraph: *Provided*, That the provisions of subparagraph (3) shall not be in effect during the months from March through July or during any month when the price of 40 percent cream is not available.

(1) The average of prices paid during such month by "18 Midwest condenseries" as reported by the United States Department of Agriculture.

(2) The price computed from the following formula:

(i) To the simple average of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) reported during such month by the United States Department of Agriculture for Grade A or 92-score bulk creamery butter in the New York City market, and add two cents and multiply by 1.22.

(ii) Multiply the result by 3.5.

(iii) Add an amount obtained by multiplying by 8.2 the simple average, as computed by the market administrator, of the prices per pound of roller process and spray process nonfat dry milk solids, for human consumption in carlots, f. o. b. manufacturing plants in the Chicago area, as published by the United States Department of Agriculture for the period from the 26th day of the immediately preceding month through the 25th day of the current month; and

(iv) Subtract 7 cents (transportation allowance) and subtract 70 cents (handling allowance).

(3) The price computed from the following formula:

(i) Divide the audited weighted average price per 40-quart can of 40 percent bottling quality cream f. o. b. Boston as published by the United States Department of Agriculture for such month by 33.48;

(ii) Multiply the result by 3.5;

(iii) Add an amount obtained by multiplying by 7.8 the simple average, as computed by the market administrator, of the prices per pound of roller process and spray process nonfat dry milk solids, for human consumption in carlots, f. o. b. manufacturing plants in the Chicago area, as published by the United States Department of Agriculture for the period from the 26th day of the immediately preceding month through the 26th day of the current month; and

(iv) Subtract 7 cents (transportation allowance) and subtract 70 cents (handling allowance)

9. The material now included in § 927.42 be labeled (a) and a new paragraph (b) be included to provide transfer allowances for Class III milk. Such transfer allowances should be set at a rate substantially below compensatory levels of plant handling and hauling costs in order to discourage uneconomic transfers.

Transfer allowances should be further subject to the following conditions:

(a) No transfer payments shall be made during the time that a desirable utilization rule is in effect.

(b) No transfer payment shall be allowable on an interplant movement of less than one mile.

(c) No transfer payments shall be allowable for milk sent from a plant at which milk was manufactured into Class III products during any part of the calendar month.

(d) No transfer payments shall be allowable for milk shipped to a plant which during the calendar month has shipped milk in Class I–A, I–B, or I–C, except that transfer payments shall be allowed for so much of the milk received from another plant as exceeds in quantity the milk shipped in Class I–A, I–B, or I–C.

Copies of this notice of hearing, the said order, as amended, and the said tentative marketing agreement may be procured from the Market Administrator, 205 East 42d Street, New York 17, New York, or from the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., or may be there inspected.

Dated: October 6, 1953.

[SEAL] ROY W LENNARTSON,
Assistant Administrator

[F. R. Doc. 53–8668; Filed, Oct. 9, 1953; 8:52 a. m.]

[7 CFR Part 927]

[Docket No. AO 71 A–23]

HANDLING OF MILK IN NEW YORK METROPOLITAN MILK MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER, AS AMENDED

Preliminary statement. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) and in accordance with the notice of hearing issued on December 24, 1952 (18 F. R. 43) a public hearing was held at Syracuse, New York, on January 22–23, 1953, and on February 16–21, 1953, upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR 927.1 et seq.)

The hearing was held with respect to whether the milk marketing order, as amended, for the New York metropolitan marketing area should continue to provide payments, from the producer-settlement fund, to co-operative associations of producers for market-wire services, and, if so, the changes, if any which should be made in the present provisions of the order, as amended, under which the payments are authorized for market-wide services. A marketing agreement has never been executed with respect to this program but the hearing relates also to the provisions in the tentative marketing agreement that are comparable to the co-operative payment provisions in the order, as amended. The term "order," as used in this decision, means the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area (7 CFR 927.1 et seq.) pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

The transcript of the testimony at the hearing consists of more than 1,700 pages and numerous exhibits. Subsequent to the hearing, some of the interested parties filed with the Hearing Clerk proposed findings and conclusions and written arguments or briefs with respect to the evidence adduced at the hearing.

Rulings. Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on August 17, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing of such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on August 21, 1953 (18 F R. 4998) The rulings contained in the recommended decision on the proposed findings and conclusions submitted by interested parties are hereby confirmed.

Careful consideration has been given to all of the exceptions filed in this proceeding, and these exceptions, together with requested findings and conclusions associated therewith, are hereby denied to the extent to which they are at variance with the findings and conclusions herein set forth.

One exception relates to whether the Secretary's decision should be "final" with respect to a ruling by the Market Administrator on the qualification or disqualification of a cooperative or federation. A slight change has been made to make it clear that the Secretary's decision, in that respect, constitutes final administrative action and that judicial review, if such is appropriate and available, is not precluded and may be obtained in accordance with the appropriate procedure, including a petition under section 8c (15) (A) of the statute if such is requisite to judicial review.

It is asserted in some of the exceptions that the decision of the Supreme Court in Brannan v. Stark, 342 U. S. 451, precludes payments to cooperatives for market-wide services, such as those provided for in the amendment to the order as set forth in this decision. But the Court's opinion in Brannan v. Stark relates to an order in another market, and the evidentiary facts and provisions in that case are significantly different, in various respects, from those involved in this rule-making proceeding. It is concluded, after careful consideration of that case, that the provisions for cooperative payments for market-wide services, as provided for in the amendment to the order as hereinafter set forth, are authorized by the statute and are supported by the extensive and strong record of the evidence in this proceeding.

Some of the exceptions relate, in general, to the evidentiary foundation for findings that were set forth in the recommended decision. These exceptions, as well as all other exceptions, have been carefully considered in the light of a review and study of the record of the hearing. The findings hereinafter set forth are in such detail as to reveal our resolution of all these issues.

Findings and conclusions. The following findings and conclusions have been arrived at after a careful review and consideration of the record of the hearing, the briefs, including the proposed findings and conclusions, and the exceptions; and all the following findings and conclusions are based on the evidence adduced at the hearing. The findings and conclusions are in detail so as to reveal and include the reasons or basis for the findings and conclusions with respect to all of the material issues of fact, law, or discretion presented on the record of the hearing. The findings and conclusions are as follows:

The regulatory program for the New York metropolitan marketing area is a joint Federal-State program. The Federal order and the State order are complementary, and both orders contain, in all material respects, identical provisions. In the case of the original promulgation of the orders, and each amendment to the orders, joint hearings have been held and the amendments to both orders have been identical in all material respects. This program has been administered in accordance with the principles of procedure set forth in the agreement or memorandum of understanding executed on August 26, 1938, by the Secretary of Agriculture of the United States and the Commissioner of Agriculture and Markets of the State of New York.

Several months prior to the hearing, the United States Department of Agriculture and the New York State Department of Agriculture and Markets appointed a committee of experts, in the field of milk marketing, to make an independent study of cooperative associations of producers in relation to the Federal-State milk marketing order for the New York metropolitan area. G. W Hedlund, Professor of Business Management and Acting Head of the Department of Agricultural Economics, New York State College of Agriculture, served as chairman of the Committee. Dr. Hedlund is a specialist in the field of cooperative organization. The other members of the committee are Thurston M. Adams, Acting Associate Dean and Director, University of Vermont and State Agricultural College; C. A. Becker, Professor of Agricultural Business Management, Pennsylvania State College; L. C. Cunningham, Professor of Farm Management, New York State College of Agriculture; Steward Johnson, Professor of Agricultural Economics, University of Connecticut; C. W Pierce, Professor of Agricultural Economics, Pennsylvania State College; Leland Spencer, Professor of Marketing, New York State College of Agriculture; Herbert G. Spindler, Assistant Research Professor, University of Massachusetts; R. P Story, Assistant Professor of Marketing, New York State College of Agriculture; and Allen G. Waller, Chairman, Department of Agricultural Economics, Rutgers University and Agricultural College. The members

of the Committee are economists and marketing specialists and are familiar with milk marketing and its various problems throughout the milkshed for the New York metropolitan area.

The subject before the Committee for investigation and study was given careful attention by the Committee. The Committee began its work by reviewing the relevant background material, including the provisions of the order, the records of the promulgation hearings on which the provisions of the order are based, and other related data. The Committee then outlined the services performed in the marketing of milk and considered three questions, viz.. (1) What agencies or groups perform each service; (2) does a particular service benefit all producers or are the benefits confined to the membership of a cooperative association of producers; and (3) should a cooperative be paid, from the producer-settlement fund, for market-wide services performed by such cooperative. After the Committee had familiarized itself with all of the background material and had studied, among other things, the services by cooperative associations of producers, the Committee issued a public invitation to interested groups and persons, including those opposed to cooperative payments, to meet with the Committee. The Committee received many points of view and ideas from the various groups or segments of the industry. The Committee held numerous meetings for discussion and study, and two of the meetings were for a session of three days, two meetings were for a session of two days, and various meetings were for one day.

The conclusions and recommendations of the Committee were submitted in evidence at the hearing, and various members of the Committee attended the hearing and testified. All of the members of the Committee are experts in this field, and their qualifications were not challenged at the hearing. A large part of the record consists of the testimony and supporting data submitted by the members of the Committee. Additional evidence was adduced by cooperative associations of producers, by handlers, and by producers who are not members of a cooperative association of producers.

Price-fixing under the milk order for the New York metropolitan marketing area is not static but requires constant attention and frequent hearings on proposed amendments. Also, marketing conditions require at times the suspension or termination of some of the provisions in the order. During the period from September 1938 to December 1949 more than 200 changes were made in the regulatory provisions of the order, and those changes were on 53 different occasions. Since December 1949 the order has been further amended at times and numerous changes made effective. Amendment hearings generally deal with involved and complex issues, and the records of such hearings are voluminous.

The milk supply for the New York metropolitan marketing area—the handling of which is regulated by the order—is produced by approximately 50,000 dairy producers located throughout a production area which includes portions of six states, and this milkshed extends more than 400 miles from the marketing area. The 50,000 individual producers are not generally situated so as to attend the numerous and protracted hearings, and also individual producers do not have available the technicians and data necessary to an effective representation of their interest at such hearings. An individual producer is not able, with his limited means, to maintain the necessary staff to keep informed of current market conditions, initiate requests for amendatory action deemed necessary in the interest of producers, and be alert and informed with respect to the constantly changing circumstances in this highly complex field of milk marketing. It is not to be expected that an individual producer, with his limited means, would be able to represent himself effectively at amendment hearings or to submit relevant evidence in a comprehensive way with respect to the variable and diverse situations that arise, sometimes on short notice, and which must be met with dispatch by way of amendatory action. For example, the failure to amend class prices which are out of line with current market conditions results in the utilization of milk in uses which do not render the most favorable return to the producers, in the market-wide pool, who receive, under the Act and the order, a uniform blended price. If, as an illustration, the Class III price for milk is too high, ice cream manufacturers may discontinue the use of cream and use butter instead, which would return to producers, under the present order provisions, 14 cents per hundredweight less for their milk. But a small decrease in the Class III price might induce the ice cream manufacturers to use cream, and as a result all producers would benefit by the utilization of the milk in the manner most profitable to the producers under a market-wide pool whereby a uniform blended price is paid to producers for their milk. Although individual producers seldom attend the hearings or actively participate in the hearings in an effective way, nonetheless the vigorous and well organized cooperative associations of producers give constant attention to the various marketing and economic problems in the industry, and by active participation in the hearings and in other activities day by day in the operation of the program contribute, in significant and far-reaching respects, to the solution of the problems that must be resolved.

The factors of size, diversity of conditions, specialization among handlers, divergency of interests, and complexity of price structures make this milkshed and regulatory program unique. In recent years the value of milk priced under this program for the New York metropolitan marketing area has exceeded $300,000,000 annually. The volume of milk priced under the program approximated 7,000,000,000 pounds in 1952, or about one third of all the milk regulated under the Federal programs regulating the handling of milk in most of the major metropolitan areas of the United States. This large volume of milk under the order is produced on farms in New York, New Jersey, Pennsylvania, Vermont Connecticut and Massachusetts. The area from which such milk is drawn is not a sharply chiseled and segregated milkshed but is overlapped and interlaced with the milksheds of the major cities in the northeast. Moreover, the milksheds for many large cities in the State of New York are wholly contained within the milkshed for the marketing area defined in the order. The overlapping of these milksheds causes complications in pricing and supply which are not present to the same degree elsewhere in the United States.

The wide range of conditions and interests in this extensive milkshed and the large volume of production and marketing of milk emphasize the pronounced need for active producer participation in this regulatory program. Inasmuch as the interests and viewpoints of the proprietary handlers—a small group—are always well represented at the hearings and in the other activities under this program, the absence of an alert and informed participation by the producers would give to the program a one-sided character that would, under the circumstances, preclude the attainment of the statutory goal. Moreover, the public has a direct interest in the proper formulation and administration of this regulatory program, and this public interest may be maintained only if all relevant market facts and circumstances are promptly developed and the large producer group is effectively represented in the functioning of the program.

Proper regulation may be made effective and maintained in effect only if the facts are fully and promptly developed and presented. This cannot be done in the absence of alert and informed participation by producers. This activity by producers is time consuming and expensive. In sharp contrast to some industries the dairy industry in this milkshed consists of thousands of relatively small producing units, i. e., dairy farms and the marketing of milk in this milkshed requires of necessity the consideration of a complex array of changing factors, such as sudden changes in the supply and demand for milk caused by the weather.

Inasmuch as the provisions of the order must be based on the evidence adduced at a public hearing and the order must be amended from time to time to be relevant to current marketing conditions so as to effectuate the economic goal set forth in the statute and thus be in the public interest, it is of basic importance for there to be producer participation in the formulation and operation of the order and the amendments thereto to the end that the program may be predicated on a broad and comprehensive foundation and thereby provide for such regulation as may attain the Congressional purpose. Producer participation in the program is also conducive to an informed and proper consideration by the producers in the referenda under the statute. Alert and informed producer participation is essential throughout the entire regulatory process in this market, e. g., in discerning the need for amendatory action and in making requests for amend-

ment hearings, in participation at the hearings, in participation in the referenda among producers as to whether the program meets with the requisite producer approval as specified in the statute, and in the numerous and varied functions day by day in the marketing of milk, including in some instances requests for suspension or termination of certain regulatory requirements. Also, the producer groups should be prepared to present evidence on short notice at industry meetings, relative to the "call" provision, under § 927.24 (g) of the milk order. Under this provision, the Market Administrator may, in designated circumstances, conduct an industry meeting for the purpose of determining whether the market is adequately supplied with fluid milk and cream. If the Market Administrator determines that the market is not adequately supplied, he may require pool handlers to supply the market with fluid milk and cream. At such hearings, some fluid milk handlers may be motivated to contend that the market needs fluid milk, while at the same time the proprietary handlers engaged in manufacturing may be motivated to contend that there is an adequate supply of fluid milk and cream so that they can continue manufacturing milk products. The producer groups must be prepared, day by day, to give detailed evidence as to the market situation so that the total milk supply will be properly utilized, and result in the greatest return to all producers under the market-wide pool. In addition, producer participation is necessary at the public meetings called by the Market Administrator to consider rules and regulations for issuance under the order.

Active participation by producers in the regulation of milk marketing is feasible only by means of cooperative associations of producers. The dairy industry in this milkshed has had considerable experience with organizations or groups of producers operating as cooperative associations of producers since 1916. Prior to September 1, 1938, when this regulatory program became effective, collective bargaining between cooperative associations of producers and handlers was an accepted method for determining the price of milk. In addition, some cooperative associations have operated and continue to operate milk plants for handling surplus milk. The order provides, among other things, for producers to receive a uniform minimum price for their milk, and after the order had been in effect for a fairly long period of time the tendency developed among some producers to regard the functioning of the order as an automatic operation. The producers, as a group, tended to withdraw support from the cooperative associations which spent time, effort, and money in protecting and fostering the interest of all producers in the milkshed. Also the general trend in recent years toward higher prices has caused some decrement in producer recognition of the need for strong cooperative associations of producers. The three principal organizations of producers in the milkshed now represent about 60 percent of all producers. But in 1940 one organization had as high a percentage of producers in its membership. The percentage of all producers in cooperative associations in the milkshed has decreased from 73.9 percent in 1940 to 70.4 percent in June 1952, and the percentage of all producers in federated cooperatives has decreased from 61 percent to 50.5 percent during the same period. The total number of cooperatives in the New York milkshed has decreased from 110 in 1940 to 91 in June 1952, and the number of such cooperatives qualified to receive cooperative payments under the New York order has decreased from 84 to 73 during that period. More than 14,000 producers—about 30 percent of the producer group in the milkshed—do not belong to any cooperative association of producers. The non-participating producers constitute a larger percentage of the total number of producers than they did when the order became effective in 1938. The following synoptic table shows the number and membership of all cooperative associations of producers in the New York milkshed as of January 1940 and June 1952:

Group	Number of cooperatives		Number of members		Percent of all producers	
	January 1940	June 1952	January 1940	June 1952	January 1940	June 1952
FEDERATED						
Bargaining	49	45	13,691	7,123	22.9	14.4
Bargaining and collecting	4	3	372	423	1.5	.9
Operating	13	20	21,946	17,426	36.6	35.2
Total federated	66	68	36,009	24,972	61.0	50.5
UNAFFILIATED						
Bargaining	18	5	3,785	6,279	6.0	12.6
Bargaining and collecting	2	1	208	76	.5	.2
Operating	24	17	3,820	3,521	6.4	7.1
Total unaffiliated	44	23	7,703	9,840	12.9	19.9
ALL COOPERATIVES						
Bargaining	67	50	17,276	13,702	28.9	27.0
Bargaining and collecting	6	4	1,180	591	1.9	1.0
Operating	37	37	23,756	20,949	43.1	42.4
Total cooperatives	110	91	44,212	34,842	73.9	70.4
Members of union-type organizations who were not members of cooperatives	.....	.....	15,627	1,662	26.1	2.8
Unorganized producers	.....	.....		13,295		26.8
All producers	.....	.....	59,839	49,479	100.0	100.0

In 25 milk markets throughout the country the percentage of all producers represented as of December 1951 in cooperatives ranged from 39 percent to 100 percent. In 9 of the 25 milk markets more than 90 percent of the producers belong to cooperatives. The New York milkshed is one of the 9 areas in which less than 75 percent of the producers are members of a cooperative. Also in 9 of the 25 milksheds more than 80 percent of the producers are members of the largest cooperative. But the New York milkshed is one of the areas in which the membership of the largest cooperative comprises less than one-third of the producers. In the New York milkshed the largest federation of cooperatives—including the largest cooperative in the milkshed—has in its membership only about 40 percent of the producers.

The relative strength of cooperative organizations and federations of cooperatives has declined somewhat since the New York milk order became effective in 1938. It appears that the present cooperative payment provisions of the order have been helpful, but have not entirely prevented this trend. The performance of essential market-wide services for the benefit of all producers in the market requires strong and vigorous cooperative associations or federations of cooperatives. The present provisions of the order providing for such payments should be improved and strengthened in various respects. Without cooperative payments the cost of the market-wide services rendered by cooperative associations and federations must be borne exclusively by their members, resulting in an unfair disparity between members and non-members. The impact on members of paying the cost of such market-wide services tends to discourage membership in cooperatives, and that tendency or discouragement thus impairs or prevents the development of the only means by which producers can be represented effectively. A failure to pay cooperative associations for services benefiting all producers would be contrary to long established public policy to encourage the development and expansion of cooperative associations of farmers as reflected in the relevant Acts of Congress, and to pay cooperatives, in the manner provided in the amendments contained herein, for services which they render in the interest of all producers is consistent with that established public policy.

Any payments to cooperatives for the performance of market-wide services should be borne equally by all producers and not merely by producers who are members of a particular group. Members of the participating cooperatives and nonmembers have equal interests in the producer-settlement fund, and their contribution to the cost of these market-wide services should be the same. All producers receive the value of such market-wide services, and all producers should, under this regulatory program, pay for them on the same pro rata basis without regard to whether or not they happen to be members of the cooperative associations which are performing the services. The situation is

the same as would be the case if there were available some other equally qualified agency which could be engaged to perform the necessary services. Accordingly, payments should be made to cooperatives out of the producer-settlement fund for the performance of the market-wide services contained in the amendments set forth in the decision.

The members of the cooperatives are distributed throughout the entire milkshed, and the cooperatives are of various types and sizes. Some of the cooperatives operate milk plants, and others do not. To the extent that producers' interests in the classification, pricing, and pooling provisions of the order may differ, such differing interests are represented by the cooperatives and their members. The cooperatives include vast numbers of producers whose interest in the order and in the milk marketing problems associated therewith is the same as the interest of producers otherwise similarly situated and interested but who are not members of cooperatives. Cooperatives as a group can and do represent the interests of producers generally in the various activities associated with the order which are necessary to its continuing effectiveness and to the protection of producer interests therein. The order applies to and benefits all producers, and not merely producers who are members of cooperative associations. The services which cooperative associations can and do perform in connection with the formulation and proper functioning of the order are necessary services which are of distinct and far-reaching benefit to producers who otherwise would be without effective representation.

The cooperative associations generally carry on many kinds of activities which are of market-wide value in the milkshed. These market-wide services by cooperative associations include: (1) Analyzing milk marketing problems and their solution, conducting market research and maintaining current information as to all market developments, preparing and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data; (2) determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the Market Administrator in the light of changing conditions; (3) participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions and also participating, by voting or otherwise, in the referenda relative to amendments; (4) participating in the meetings called by the Market Administrator with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data and briefs for submission; (5) conducting a comprehensive educational program among producers—members and nonmembers of cooperatives—and keeping such producers well informed for participation in the regulatory program, and as a part of such program by issuing publications that contain relevant data and information about the order and its operation, and the distribution of such publication to members and, on the same subscription basis, to nonmembers who request it, and holding meetings at which members and nonmembers may attend.

In addition to the foregoing services of market-wide character by cooperative associations of producers, some of the cooperatives, generally identified as operating cooperatives, perform market-wide service with respect to the maintenance of manufacturing plants for surplus milk. In this milkshed, with its wide seasonal and cyclical variations in supply, it is necessary to have these plants in order to insure an outlet for the milk produced for disposition as fluid milk in the marketing area. In order to avoid shortages during some of the time, it is necessary that the supply of milk for the marketing area should at all times exceed the minimum requirements of the fluid milk market. Whatever the minimum safety margin may be, it is not possible to maintain that minimum in the fall and winter months without exceeding it in the spring and summer months owing to the seasonal variation in milk production. This economic imbalance in the production and marketing of milk presents a serious problem with respect to assuring an adequate supply of fluid milk throughout the year and of equitably disposing of the surplus milk. The order applies only to milk that handlers are willing to and do accept, and if producers are denied an outlet for their milk by proprietary handlers then the producers are faced with the uneconomic choice between dumping their milk or reducing their herds, unless outlets for their milk are provided by the cooperatives. Manufacturing facilities should be available to handle the surplus milk that cannot be utilized on the fluid milk market. Manufacturing facilities required to handle the surplus milk are not ordinarily required at other times of the year, and are maintained as standby facilities. These operations of manufacturing plants take care of both seasonal and week-end surpluses, and the operations include of necessity the storage and handling of dairy products manufactured from the surplus milk. Operating cooperatives have constructed and maintained these plants which are generally operated more intermittently and at greater financial burden than similar plants that are operated by proprietary handlers. The financial burden for maintaining these facilities for the disposal of surplus milk is a major handicap to some cooperatives.

The problem of surplus milk can, in some respects, be met by means of class pricing but in view of the rapidly changing conditions in the market it is not possible to solve this problem solely by means of class prices. The market-wide services thus performed by maintaining plants for surplus milk could under some circumstances be performed by proprietary handlers who may be willing to perform this service. But the record of this hearing does not warrant a finding or conclusion that payments should, in this respect, be made to proprietary handlers. The subject is, however, one for further consideration, and may be presented at another hearing whenever appropriate. The payments to cooperatives, as provided for in the amendments hereinafter set forth, are the appropriate and necessary payments for the market-wide services which are performed only by cooperatives, and these services are necessary under the circumstances revealed in the record.

Cooperative associations of producers also perform a market-wide service in disposing of their milk so as to result in the highest net return to the pool, i. e., producer-settlement fund. Of necessity the order fixes different class prices for the different uses of milk. Because the relationship of these class prices is not always in perfect balance due to rapidly changing market conditions, handlers may at times realize a greater margin of profit by using milk in the lower valued class uses as compared to the more valuable utilizations. By reason of the cooperative payment provisions which are presently in the order cooperatives have channeled the milk under their control into the utilizations most advantageous to the pool despite the loss to them of such greater profit margins, and the total value of the pool has been thereby enhanced to the advantage of all producers. This market-wide service by the cooperatives is performed whenever their milk is thus disposed of in a higher priced class if, in fact, there is a market for milk in that higher utilization class without "bumping" other pool milk into a lower class.

The present cooperative payment provisions of the order require each participating cooperative, on its own initiative, to assure that the milk handled or controlled by it flows into and is utilized in channels that yield the highest net available return to the pool, i. e., producer-settlement fund, and consequently to all producers. In actual application the cooperatives, and particularly the smaller bargaining cooperatives, have encountered some difficulty in ascertaining whether the utilization of their milk is in the class utilization which would give the highest overall return to the producer-settlement fund, and compliance with the present provisions by the participating cooperatives appears to have resulted at times in displacing other producer milk in the higher class utilizations without actually achieving a higher net utilization for the pool, while at the same time causing some unnecessary costs and shifting of normal uses of particular milk.

It was suggested during the hearing that better class pricing would more effectively solve this problem. But no milk pricing mechanism will automatically or constantly maintain the desirable relationships between class prices and bring about the most desirable utilization at all times, and no such device or method is available for the future. Accordingly, the provisions for cooperative payments for market-wide services are necessary, in view of the characteristics of the market, to achieve the goal of this program under section 8c (18) of the statute.

Although the cooperatives and federations receiving the payments will be expected to keep a constant watch on relative class prices and to take prompt action to assure that appropriate amendatory or other action be proposed to restore proper pricing balances as soon as possible, amendments to the New York order cannot ordinarily be made effective without some delay. Some pricing disparities, by their very nature, are temporary, so that amendment of the order would not be feasible. A provision which would require cooperatives or federations to act in a practicable way to assure the most desirable class utilization of milk would provide interim protection to the pool until such disparities disappear or can be corrected.

Although the 1945 amendments to the order required pool handlers, in designated circumstances, to supply fluid milk and cream, such "call" provisions in § 927.24 (g) of the order do not fully meet the problem of achieving the most desirable utilization of milk. The basic purpose of the call provisions is to assure a sufficient supply of fluid milk and cream to the market. Because of the complexities of the problem, the call provisions have been specifically limited to certain fluid milk and fluid cream classes, and do not cover all aspects of desirable utilization. Specified procedures also must be followed before the call milk provisions can be put into effect, leaving some inevitable time lags. In addition, the maximum percentages fixed for all pool plants with respect to specified class uses would not necessarily represent the total potential demand in each of such classes. Consequently, even in the limited field of "call milk" room remains for action by cooperatives to insure utilization most advantageous to the pool, i. e., the producer-settlement fund.

The cooperative payment provisions, in that respect, appear to have worked somewhat automatically or unobtrusively and have substantially accomplished the purposes for which they were designed, although not always perfectly. It is concluded, however, that the same net result can be accomplished, while avoiding the undesirable incidental or side effects of the present provisions, by cutting off payments to participating cooperatives which persist in arranging for undesirable utilizations of their milk after having been called on by the Market Administrator to correct the practice. A cooperative which persists in utilizing milk in a lower use value after receiving notice of an unfulfilled market demand for milk in a higher value use is engaging in marketing activity that is inimical to the interest of the entire producer group in the market-wide pool provided for by this order, and any such cooperative should be precluded from receiving cooperative payments, from the producer-settlement fund, for thus failing to dispose of its milk in the highest use value for which there is an unfulfilled market demand.

In order to function properly in rendering the various market-wide services a cooperative should have a well established program administered by staff of trained specialists. A budget of substantial size is necessary. The required market-wide services can be rendered more effectively and at less expense to the producers, in general, by a few large cooperatives or federations of cooperatives than by numerous small organizations. A large organization is able to hire larger and better qualified staffs of experts than a small group and a large organization is able to undertake more extensive research projects than a small group is able to undertake. A large organization represents the views of its diversified membership and is able to provide the necessary facilities and competent personnel to deal effectively with the problems confronting the producer group. A small cooperative may, under some circumstances, render services of market-wide character, but the present-day needs and complexity of this great milkshed are such that, for practical purposes, cooperative payments from the producer-settlement fund should be limited to cooperatives or federations of cooperatives that meet the minimum size requirements established in the amendments to the order as later set forth in this decision.

Any cooperative or federation of cooperatives that has at least 4,000 producer members and in the various other respects also meets the criteria set forth in the amendments to the order, as later set forth in this decision, should receive from the producer-settlement fund a payment of 2 cents per hundredweight of milk marketed during each month by the producer members of such group. Although a smaller cooperative or federation may, under some circumstances, render services of market-wide character, nonetheless the complex attributes of this milk market are such that, as a practical matter, a cooperative or federation should, for this purpose, have at least 4,000 producer members so as to be able to maintain a staff and facilities requisite to the performance of the necessary market-wide services. Cooperatives that cannot individually qualify under the requirement for at least 4,000 producer members may federate, and by means of the federation perform market-wide services so as to qualify for payments to the federation under the amendments to the order as set forth in this decision.

As a cooperative or federation increases in size its services to the market as a whole are of more widespread character and value, and therefore such organization should receive a higher rate of payment than a smaller organization. Cooperatives and federations of more than 6,000 members have their membership distributed among several states in the milkshed, whereas the membership of smaller cooperatives or smaller federations tends to be localized in smaller and more compact geographical areas. The larger organizations are, therefore, inherently better equipped to perform market-wide services, and all producers will benefit more if the larger organizations undertake the more extensive, and costly, market-wide services Also the cost per member for furnishing market-wide services tends to increase as the cooperative increases in size because of the distribution of membership over widely separated area. Any cooperative or federation of cooperatives that has at least 6,000 producer members and in the various other respects also meets the criteria set forth in the proposed amendment should receive from the producer-settlement fund an additional payment of 1 cent per hundredweight of milk marketed during each month by such group.

Cooperatives that operate marketing facilities, i e. pool plants, render services to the market as a whole that are of greater value than the services rendered by non-operating cooperatives. An operating cooperative has more continuous and closer contacts with its members, and also its members have a more extensive and vital interest in the marketing problems in the milkshed than is true of non-operating cooperatives. By virtue of its own marketing functions, a cooperative that operates marketing facilities has first-hand knowledge of the constantly changing conditions affecting the receipt and distribution of milk and milk products. Such cooperative thus has more direct and intimate knowledge of market conditions and developments than a non-operating association and becomes immediately aware of changes in supply and demand, price relationships, and the various other factors of marketing. Operating cooperatives therefore are in a more advantageous position than non-operating cooperatives for discerning the need to change class prices. This is important because the prompt readjustment of class prices to reflect changed economic conditions is necessary to maximize returns to all producers and yet provide an outlet for all of their milk.

Any cooperative that meets the eligibility standards, in the amendments in this decision, and also operates marketing facilities at which is received at least 25 per centum, by weight, of the milk marketed by its producer members, should receive from the producer-settlement fund a payment of an additional 1 cent per hundredweight of milk marketed during each month by the producer members of such cooperative. A federation whose members include operating cooperatives should receive the additional payment of 1 cent per hundredweight if at least 25 per centum, by weight, of the milk delivered by the producer members of the federated cooperatives is received at plants operated by a cooperative member or members of the federation or at plants, if any, operated by the federation To comply with the 25 per centum requirement a cooperative or the members of a federation will have to handle not less than approximately 380,000 pounds of milk per day (4,000 [members] times 25 per centum of 380 [average production per day per dairy]). The marketing of this substantial volume of milk will require alertness to, and familiarity with, daily marketing conditions

The market-wide services, required to be performed in the interest of all producers, will be effectively performed if the cooperatives are paid at the rates set forth in the amendments in this decision. The value to all producers of the performance of the market-wide services will at least equal the amount of the pay-

ments to the cooperatives. The cooperatives should, under the amendments, submit budgets which will be carefully studied, and the performance of the market-wide services should be under the constant scrutiny of the Market Administrator. Experience may, of course, reveal the need for revision of the rates. However, under the record of this hearing, the cooperatives should receive payments for the performance of market-wide services in accordance with the rates set forth in the amendments.

The aggregate amount of the payments to cooperatives, under the amendments contained in this decision, cannot be exactly determined inasmuch as it is not known at the present which cooperatives or federations will qualify for the payments, but an adequate basis exists for estimating with reasonable accuracy the maximum amount of the payments to all cooperatives and federations, and the cost per producer, in the milkshed, for the payments to cooperatives and federations under these amendments. The total value of the milk pooled and priced under the New York order in 1951 was $310,292,982. The total amount distributed in 1951 as cooperative payments was $1,273,109, i. e., 1/10 of 1 percent of the total value of the milk pooled. Translated into terms which would project the total expenditures from the producer-settlement fund to producers as individuals irrespective of whether they are members of a cooperative or are non-members, the average individual expenditure to the producers marketing milk under the order in 1951 was slightly over $25.00. If, for example, it is assumed that all of the cooperatives in the milkshed should qualify, separately or as members of a federation, for the payment of 2¢ per hundredweight provided for in the amendments to the order as hereinafter set forth, such payments would amount to $975,000 per year based on the data for 1952. The payments to cooperatives and federations may, in the aggregate, be increased under the amendments by virtue of the additional payment of 1¢ per hundredweight to operating cooperatives and federations and 1¢ per hundredweight additional to any cooperative or federation which has a membership of 6,000 or more. But the aggregate or total of cooperative payments under these amendments, as set forth in this decision, will not be in excess of ½ of 1 percent of the total value of the milk pool. The aggregate of these payments from the producer-settlement fund to the cooperatives and federations will represent approximately $25 for each producer in the milkshed, and approximately 70 percent of the producers are members of cooperative associations of producers. The value of the market-wide services, under this complex and intricate regulatory program, is worth more to each producer than the small amount paid to the cooperatives for the performance of the market-wide services. A change, for example, of 1 percent in the uniform price would affect the average annual return of a producer—which in 1951 was approximately $6,300—by more than $60.

The cooperatives incur expenses in the performance of these market-wide services at least equal to the amount thus received from the producer-settlement fund. It is only by means of making these payments from the producer-settlement fund to the cooperatives for the performance of market-wide services that a uniform blended price may be arrived at which will equitably apportion the total value of the milk, purchased by all handlers, among producers and associations of producers on the basis of their marketings of milk during each month which, under the order, is the proper representative period for this purpose. Also, the payments to the cooperatives for the performance of the market-wide services are incidental to, and necessary to effectuate, the classification, pricing, and pooling of milk, and inasmuch as the payments are for the performance of market-wide services the payments are not for milk, but are for services, and thus the blended price which is computed after the making of these payments results in a price which is uniform for all of the milk. The market-wide services and the payments therefor are not inconsistent with the statutory requirement for uniform prices for milk subject only to the variations or adjustments referred to in the statute.

The members of a cooperative or federation should continue, in accordance with the principle heretofore observed under this order, to pay the entire cost of the activities of such cooperative or federation which are not of market-wide benefit. A cooperative receiving payments, or a federated cooperative, under the amendments set forth in this decision should be required to receive from its producer members at least 1 cent per hundredweight of milk marketed by its producer members. That requirement tends to safeguard against a cooperative's depending upon the cooperative payments to finance activities that are not market-wide. If a federation performs activities which are solely market-wide in nature for the benefit of all producers, the federated cooperatives comprising the federation should not be required to make any payments to the federation, except that the Market Administrator's rules and regulations should, among other things, require, whenever necessary to insure the performance of the market-wide services for which the cooperative payments are made, a minimum monthly payment by federated cooperatives to the federation so as to be sure that a federation which receives cooperative payments will fully perform the market-wide services for which the payments are made, and not depend upon cooperative payments to finance activities, if any, that are not market-wide in character.

In order to assure adequate performance of the market-wide services by an applicant for cooperative payments, certain standards are enumerated in the amendments. In order for a cooperative to qualify for payments it should appear that such cooperative is duly incorporated under the cooperative corporation laws of a state; that it is qualified under the Capper-Volstead Act (7 U. S. C. 291 et seq.); and that all of its activities are under the control of its members and that it has full authority in the sale of the milk produced by its members. Any such cooperative must have at least 4,000 members who are producers and from whom the cooperative receives not less than 1 cent per hundredweight of milk delivered by the members. In order for a federation to qualify for payments it should appear that such federation is duly incorporated under the laws of a state, and that each of its members is a duly organized cooperative. The federated cooperatives should have an aggregate of not less than 4,000 members who are producers from whom the federated cooperatives receive not less than 1 cent per hundredweight of milk delivered by their producer members. Also, when required by rules and regulations of the Market Administrator the federated cooperatives should pay to the federation the minimum monthly payment specified in the rules and regulations to finance any activities of the federation that are not market-wide in character.

A cooperative receiving payments should be permitted to affiliate with a federation of other cooperatives, but the membership of the cooperative receiving payments should not be counted for the purpose of determining the size or the amount of payment to be made to the federation. The cooperative payments should be made to the individually qualified cooperative unless its contract with the federation specifies in writing that the federation is to receive the payments. Any such contract must authorize the federation to receive the payments for at least one year, and such agreement must cover or be renewed for a yearly period for every subsequent year for which the federation is to receive the payments. In addition, a federation should have contracts with each of its federated cooperatives under which the cooperatives agree to remain in the federation for at least one year, and such contracts should cover or be renewed for a yearly period for every subsequent year for which the federated cooperatives are to be included within the membership of the federation for cooperative payment purposes. These provisions ensure a degree of stability to the federation, and permit it to offer employment incident to the performance of market-wide services for a period of at least one year. These provisions, while preventing double payments, permit cooperatives receiving payment to give their support and assistance to federations of other cooperatives.

No producer should be counted more than once in determining the membership of the various cooperatives or federations qualified to receive cooperative payments, and two organizations should not receive payment on the same milk delivered by a producer.

In determining whether a federation of cooperatives is eligible to receive an additional payment of 1 cent per hundredweight, by reason of receiving at least 25 percentum, by weight, of the milk delivered by members of the federated cooperatives at plants operated by the cooperatives or the federation, the milk delivered by members of a cooperative

which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation claiming or receiving cooperative payments on the same milk, or which is not meeting all of the requirements applicable to it should not be considered. The payment to be made to a federation should be determined only by the milk delivered by producer members of cooperatives which individually meet all of the requirements applicable to them.

A cooperative or a federation may apply to the Market Administrator for payments, and the Market Administrator should make a determination as to whether or not the applicant meets the requirements in the amendments set forth in this decision. For initial qualification the applicant should demonstrate its ability to perform the various market-wide services described in the amendments to the order as set forth in this decision, and any such application should be accompanied by a written plan which details its proposed program for the performance of market-wide services, and the Market Administrator should be satisfied, before approving the application, that the applicant has the requisite personnel, facilities, and plan for performing the market-wide services, and that such services will be performed.

The performance of market-wide services by the cooperatives or federations that receive payments should be under the constant scrutiny of the Market Administrator in accordance with the provisions in the amendments, in this decision, and in accordance with the rules and regulations to be issued by the Market Administrator. The cooperatives and federations receiving these payments should submit such reports and keep such records as may be deemed necessary by the Market Administrator to enable him to verify whether they are performing the market-wide services, and all such records should be available for inspection and audit by the Market Administrator. The cooperatives or federations that receive payments must perform the market-wide services enumerated in the amendments in this decision, and upon determination by the Market Administrator, after due notice and hearing, that a cooperative or a federation is failing to perform such services the payment should be discontinued by the Market Administrator and the action thus taken should be publicly announced. The proper grounds for disqualification are those enumerated in the amendments, and any cooperative or federation thus disqualified by the Market Administrator may within thirty days after the action thus taken appeal to the Secretary. If no such appeal it taken within that period of time, the action of the Market Administrator should be final. If an appeal is properly perfected, the final administrative decision should be made by the Secretary, but the record on appeal should be limited to the record before the Market Administrator at the time of his determination. Efficient administration requires that there be a full and complete presentation of all relevant and material facts to the Market Administrator and that such evidence should not be withheld.

The amendments in this decision contain provisions to facilitate and expedite the administration of the provisions which authorize cooperative payments. The Market Administrator should be charged with the responsibility of determining initially whether a cooperative or federation of cooperatives qualifies to receive cooperative payments and also whether it continues to meet the prescribed eligibility and performance requirements. The determination by the Market Administrator should be subject to review by the Secretary upon application therefor by the cooperative or federation. There should be centralized in the Market Administrator the initial responsibility for qualification and disqualification, and no action to disqualify a cooperative or federation should be taken by the Market Administrator until after the cooperative or federation has been notified by the Market Administrator of the alleged failure to meet one or more of the requirements and has been given an opportunity to be heard.

Provision is made in the amendments for the issuance by the Market Administrator of rules and regulations to effectuate the provisions of the order relative to cooperative payments. Broad authority is thus provided for the issuance of rules and regulations. Such regulations should be designed to implement the order provisions and specify in more detail the administrative requirements in connection with the duty imposed on the Market Administrator to make determinations concerning the qualification and disqualification of cooperatives to receive the payments authorized. Rules and regulations for that purpose should be issued only in accordance with the prescribed procedure (similar to that provided in § 927.36 of the order) under which interested parties are provided full opportunity to participate in their formulation. This provision gives a degree of flexibility to the administration of the order provisions and permits the cooperatives and federations to be fully informed as to the administrative practice.

The amendments to the order should provide that, for a period of 90 days after the effective date of the amendments, a cooperative shall receive the same rate of payment for performing the market-wide services as provided in the present order, unless prior to the expiration of the 90 days the cooperative has been qualified under the new amendments. If by the end of the 90 day period, the cooperative has filed an application for qualification under the proposed amendments and if the cooperative continues to perform the market-wide services under the order now in effect, the cooperative should continue to receive the payments set forth in the order now in effect until the application is acted upon by the Market Administrator. The cooperatives are presently performing market-wide services of benefit to all producers, and if the cooperatives continue to perform these services they should continue to receive payments during this transitional period for such services. Under the amendments in this decision, in order to qualify for payments the cooperatives may have to reorganize and supplement their staffs in addition to other changes which may be required. It may take some cooperatives or federations a reasonable period in order to meet the requirements contained in the amendments and the rules and regulations which are to be issued. It would be contrary to the interests of all producers in the market to be deprived of the market-wide services now performed by cooperatives during this period. In addition, the Market Administrator will have to issue rules and regulations to implement the provisions of the order, and this action by the Market Administrator must, under the amendments, be issued after participation by the industry in public meetings. The Market Administrator will have to give adequate notice of the meetings to the industry so that the industry will have adequate time within which to prepare their evidence and arguments. For example, rules and regulations will be needed to implement the initial qualification provisions, and other provisions, such as those precluding double payment in the event a producer or a cooperative is a member of one or more organizations receiving payments. In order that the Market Administrator may have adequate time within which to issue the rules and regulations, and in order to permit the cooperatives and federations to become familiar with the new amendments and the rules and regulations and to take any other action which may be necessary in order to permit the cooperatives and federations to qualify for payments under the new amendments, the order should contain the 90 day provision set forth in the amendments.

It was suggested at the hearing that in order to foster and encourage the growth of cooperatives and federations for the better performance of market-wide services, the continued eligibility for payment be contingent upon attainment of prescribed increases in membership within specified periods. By providing for an additional payment to cooperatives or federations of 6,000 members or more the desired result will be accomplished by the amendments proposed in this decision. If it should develop that these amendments are inadequate or ineffective, a hearing may be called for the purpose of considering appropriate amendments prior to the expiration of the two-year period suggested at the hearing as the time within which the first increase should be attained.

Other proposals which should not be adopted at this time are those with respect to an additional "matching" payment from the producer-settlement fund and the establishment of an advisory committee to collaborate with and advise the Market Administrator relative to the administration of the cooperative payment provision of the order.

The deduction of additional sums from members to pay for other services is not so directly related to the performance of market-wide services as to justify an automatic increase in the payments from the pool. The rates provided in the proposed amendments should assure the

adequate performance of the market-wide services contemplated in this decision. If these rates should prove inadequate, they may be changed through the amendment process.

The establishment of a formal advisory committee is not necessary, under the amendments, to the effective administration of the cooperative payment provision of the order. The procedure provided in connection with the issuance of rules and regulations should provide adequate opportunity for the participation of producer groups in the development of administrative requirements incident to the cooperative payment provision. Moreover, such groups may at any time submit recommendations and suggestions to the Market Administrator for the more effective administration of this provision.

It was proposed at the hearing that funds for administration of the cooperative payment provision—as distinguished from the cooperative payments—be taken from the producer settlement fund rather than from the administrative assessment fund. Provisions of the act authorizing the issuance of milk marketing orders require that the cost of administering the order be paid from funds derived from a pro rata assessment on the milk received by handlers subject to the order, and the cost of administering the cooperative payment provision of the order is merely a part of the cost of administration required to be financed from the administrative assessment fund.

In addition to the foregoing, it is further found and concluded that:

(a) The marketing agreement and the order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act.

(b) The terms and conditions in the amendments are incidental to, and not inconsistent with, the terms and conditions specified in subsections (5)–(7) of section 8c of the act (7 U. S. C. sections 608c (5)–(7)) and necessary to effectuate the other provisions of the order.

(c) The terms and conditions in the amendments are necessary in order equitably to apportion the total value of the milk purchased by all handlers among producers and associations of producers, on the basis of their marketings of milk during each month which is the proper representative period.

(d) The terms and conditions in the amendments are necessary to accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in the relevant acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(e) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the marketing agreement and in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

(f) The marketing agreement and the order, as amended, and as hereby further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Order of the Secretary Directing the Conduct of a Referendum; Determination of a Representative Period; and Designation of Referendum Agent

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order, as amended, regulating the handling of milk in the New York metropolitan marketing area) who, during the month of July 1953, which month is hereby determined to be the representative period for such referendum, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order, as amended, to determine whether such producers favor the issuance of the amendatory order which is filed herewith.

Charles J. Blanford is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 35th day from the date this decision is filed with the Hearing Clerk, United States Department of Agriculture.

Marketing agreement and amendment to order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing agreement regulating the handling of milk in the New York metropolitan marketing area," and "Order, amending the order, as amended, regulating the handling of milk in the New York metropolitan marketing area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 7th day of October 1953.

[SEAL] EZRA TAFT BENSON,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the New York Metropolitan Milk Marketing Area

§ 927.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and the order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act.

(2) The terms and conditions in § 927.76 of the order, as amended, and as hereby further amended, are incidental to, and not inconsistent with, the terms and conditions specified in subsections (5)–(7) of section 8c of the act (7 U. S. C. sections 608c (5)–(7)) and necessary to effectuate the other provisions of the order.

(3) The terms and conditions in § 927.76 of the order, as amended, and as hereby further amended, are necessary in order equitably to apportion the total value of the milk purchased by all handlers among producers and associations of producers, on the basis of their marketings of milk during each month which is the proper representative period.

(4) The terms and conditions in § 927.76 of the order, as amended, and as hereby further amended, are necessary to accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in the relevant acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(5) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds,

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the marketing agreement and in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

(6) The marketing agreement and the order, as amended, and as hereby further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended as follows:

1. Delete § 927.76 of the order as now in effect and substitute therefor the following:

§ 927.76 *Cooperative payments for market-wide services.* Payments shall be made to qualified cooperatives or to federations under the conditions, in the manner, and at the rates set forth in this section.

(a) *Definitions.* As used in this section the following terms shall have the following meanings:

(1) "Cooperative" means a cooperative association of producers which is duly incorporated under the cooperative corporation laws of a state; is qualified under the Capper-Volstead Act (7 U. S. C. 291 et seq.); has all its activities under the control of its members and has full authority in the sale of its members' milk.

(2) "Federation" means a federation of cooperatives.

(3) "Federated cooperative" means a cooperative which is a member of a federation and on whose membership the federation is an applicant for or receives payments under subparagraph (2) of paragraph (f) of this section.

(4) "Member" means, when used with respect to a member of a cooperative or of a federated cooperative, only a member who is also a producer, as defined in § 927.6.

(b) *Qualified cooperatives and federations.* A cooperative or federation may submit an application to the Market Administrator for payments under the provisions of this section. In accordance with the requirements of the rules and regulations issued by the Market Administrator, any such application shall include a written description of the applicant's program for the performance of market-wide services, including evidence that adequate facilities and personnel will be maintained by it so as to enable it to perform the market-wide services; and the application shall contain a statement by the applicant that it will perform the required market-wide services for which it is applying for payments. The application shall set forth all necessary data so as to enable the Market Administrator to determine whether it meets the qualification requirements with respect to the payments for which the application is submitted. An application shall be approved by the Market Administrator only if he determines that:

(1) In the case of a cooperative:

(i) It has not less than 4,000 members and receives from its members not less than 1 cent per hundredweight of milk delivered by them: *Provided*, That no person shall be counted in this respect as a member if he is a member of another cooperative which is an applicant for or which receives cooperative payments, or if he is a member of a federated cooperative.

(ii) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, it has not less than 6,000 members and receives from its members not less than 1 cent per hundredweight of milk delivered by them, subject to the proviso in subdivision (i) of this subparagraph.

(iii) If the application is also for an additional payment under subparagraph (4) of paragraph (f) of this section, the cooperative is an operating cooperative which operates marketing facilities, i. e., pool plant(s), at which it receives at least 25 per centum, by weight, of the milk marketed by all of its members: *Provided*, That in determining whether the 25 per centum minimum requirement is complied with there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(2) In the case of a federation:

(i) It is duly incorporated under the laws of a State.

(ii) It has contracts with each of its federated cooperatives under which the cooperatives agree to remain in the federation for at least one year, and such contracts cover or will be renewed for a yearly period for every subsequent year for which the federated cooperatives are to be included within the membership of the federation for cooperative payment purposes.

(iii) Its federated cooperatives have an aggregate of not less than 4,000 members and the federated cooperatives receive from their members not less than 1 cent per hundredweight of milk delivered by them; and its federated cooperatives will pay to the federation, when required by rules and regulations issued by the market administrator, the minimum monthly payment specified in the rules and regulations to finance the activities of the federation that are not market-wide in character: *Provided*, That no person shall be counted in this respect as a member if he is a member of a cooperative which is an applicant for or which receives cooperative payments, or if he is a member of another federated cooperative.

(iv) If the application is also for an additional payment under subparagraph (3) of paragraph (f) of this section, the aggregate membership of the federated cooperatives is not less than 6,000 members and the federated cooperatives receive from their members not less than 1 cent per hundredweight of milk delivered by their members, subject to the proviso in subdivision (iii) of this subparagraph.

(v) If the application is also for an additional payment under subparagraph (5) of paragraph (f) of this section, the federation operates marketing facilities, i. e., pool plant(s), or the federated cooperatives operate marketing facilities, at which is received at least 25 percentum, by weight, of the milk marketed by the members of the federated cooperatives: *Provided*, That in determining whether the 25 percentum minimum requirement is complied with, there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) The applicant cooperative or federation demonstrates that it has the ability to perform the market-wide services for which application is made, and that such services will be performed.

(4) The applicant cooperative or the federated cooperatives of an applicant federation are in no way precluded from arranging for the utilization of milk under their respective control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(c) *Notice of qualification or denial; effective date.* Upon determination by the market administrator that a cooperative or a federation is qualified to receive payment for performance of the market-wide services, he shall transmit such determination to the applicant cooperative or federation and publicly announce the issuance of the determination. The determination shall be effective with respect to milk delivered on and after the first day of the month following issuance of the determination. If, after consideration of an application for payments for market-wide services, the market administrator determines that the cooperative or federation is not qualified to receive such payments, he shall promptly notify the applicant and specifically set forth in such notice his reasons for denial of the application.

(d) *Requirements for continued qualification.* From time to time and in accordance with rules and regulations which may be issued by the market administrator, each qualified cooperative or federation must demonstrate to the market administrator that it continues to meet the qualification requirements for the payments and is fully performing the market-wide services for which it is being paid.

(e) *Market-wide services.* Each cooperative or federation shall perform the

market-wide services enumerated in this paragraph. Such services are: (1) Analyzing milk marketing problems and their solution, conducting market research and maintaining current information as to all market developments, preparing and assembling statistical data relative to prices and marketing conditions, and making an economic analysis of all such data; (2) determining the need for the formulation of amendments to the order and proposing such amendments or requesting other appropriate action by the Secretary or the market administrator in the light of changing conditions; (3) participating in proceedings with respect to amendments to the order, including the preparation and presentation of evidence at public hearings, the submission of appropriate briefs and exceptions, and also participating, by voting or otherwise, in the referenda relative to amendments; (4) participating in the meeting called by the market administrator, such as meetings with respect to rules and regulations issued under the order, including activities such as the preparation and presentation of data at such meetings and briefs for submission thereafter; (5) conducting a comprehensive educational program among producers—i. e., members and nonmembers of cooperatives—and keeping such producers well informed for participation in the activities under the regulatory order and, as a part of such program, issuing publications that contain relevant data and information about the order and its operation, and the distribution of such publication to members and, on the same subscription basis, to nonmembers who request it, and holding meetings at which members and nonmembers may attend; and (6) in the case of a cooperative or federation which receives an additional payment under subparagraph (4) or (5) of paragraph (f) of this section, operating marketing facilities, or having within its membership federated cooperatives operating marketing facilities, i. e., pool plant(s) at which is received at least 25 per centum, by weight, of the milk marketed by all the members of the cooperative or by all the members of the federated cooperatives.

(f) *Rate, computation, time, and method of payment.* (1) Subject to the provisions of paragraph (g) of this section, the market administrator, on or before the 25th day of each month, shall make payment out of the producer-settlement fund, or issue equivalent credit therefor, to each cooperative or federation which is qualified for such payments for market-wide services. The payment to a cooperative shall be based upon the milk reported by cooperative or proprietary handlers to have been received during the preceding month from its members, and the payment to a federation shall be based upon the milk reported by cooperative or proprietary handlers to have been received during the preceding month from the members of its federated cooperatives, subject in both instances to adjustment upon verification by the market administrator.

(2) Such payment or credit shall be at the rate of 2 cents per hundredweight of milk in accordance with subparagraph (1) of this paragraph: *Provided*, That in computing payment to a cooperative there shall be excluded all of the milk of its members who belong to another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk: *And provided further* That in computing payment to a federation there shall be excluded all of the milk of members of a cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in another federation which is an applicant for or receiving cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(3) Any cooperative that has at least 6,000 members and any federation which has an aggregate membership of its federated cooperatives of at least 6,000 members shall receive a payment, in addition to the payment provided for in subparagraph (2) of this paragraph, of 1 cent per hundredweight of milk in accordance with subparagraph (1) of this paragraph and subject to the provisos contained in subparagraph (2) of this paragraph.

(4) Any cooperative that operates marketing facilities, i. e., pool plant(s), at which is received at least 25 per centum, by weight, of the milk marketed by all of its members shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph, of 1 cent per hundredweight of all milk marketed by its members in accordance with subparagraph (1) of this paragraph: *Provided*, That in computing the payment under this subparagraph there shall be excluded the milk delivered by a member of the cooperative who is a member of another cooperative which is an applicant for or which receives cooperative payments on the same milk or which is a federated cooperative in a federation which is an applicant for or receiving cooperative payments on the same milk.

(5) Any federation that operates marketing facilities, i. e., pool plant(s) or whose members include one or more federated cooperatives that operate marketing facilities, at which is received at least 25 per centum, by weight, of the milk marketed by all the members of its federated cooperatives shall receive a payment, in addition to the payment provided for in subparagraph (2) or subparagraph (3) of this paragraph, of 1 cent per hundredweight of all milk marketed by such members in accordance with subparagraph (1) of this paragraph: *Provided*, That in computing the payment under this subparagraph there shall be excluded the milk delivered by members of a cooperative which is an applicant for or which receives cooperative payments on the same milk, or which is a federated cooperative in another federation which is an applicant for or receives cooperative payments on the same milk, or which is not meeting the requirements of this section applicable to it.

(6) If an individually qualified cooperative is affiliated with a federation, the cooperative payment shall be made to such cooperative unless its contract with the federation specifies in writing that the federation is to receive the payments. Any such contract must authorize the federation to receive the payments for at least one year, and such agreement must cover or be renewed for a yearly period for every subsequent year for which the federation is to receive the payments.

(g) *Disqualification.* (1) The market administrator shall issue an order wholly or partly disqualifying a previously qualified cooperative or federation for payments authorized pursuant to this section and such payments shall not thereafter be made to it if he determines that:

(i) The cooperative or federation no longer complies with the requirements of this section: *Provided*, That in the case of the federation, if one of its federated cooperatives has failed to comply with the requirements of this section applicable to it or has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification, the federation shall be disqualified only to the extent that its qualification for payments or the amount of its payments are based upon the membership, milk or operations of such non-complying federated cooperatives;

(ii) The cooperative or federation has failed to make reports or furnish records pursuant to this section or pursuant to rules and regulations issued by the market administrator; or

(iii) In the case of the cooperative, it has failed, promptly after demand by the market administrator, to arrange for the utilization of milk under its control so as to yield the highest available net return to all producers without displacing an equivalent quantity of other producer milk in the preferred classification.

(2) An order of the market administrator wholly or partly disqualifying a cooperative or federation shall not be issued until after the cooperative or federation has had opportunity for hearing thereon following not less than 15 days' notice to it specifying the reasons for the proposed disqualification. If the cooperative or federation fails to file a written request for hearing with the market administrator within such period of 15 days, the market administrator may issue an order of disqualification without further notice; but if within such period a request for hearing is filed, the market administrator shall promptly proceed to hold such hearing pursuant to rules and regulations issued by him under paragraph (i) of this section.

(3) A disqualification order issued by the market administrator shall set forth the findings and conclusions on the basis of which it is issued.

(h) *Appeals*—(1) *From denials of application.* Any cooperative or federation whose application for qualification has been denied by the market administrator may, within 30 days after

notice of such denial, file with the Secretary a written petition for review. But the failure to file such petition shall not bar the cooperative or federation from again applying to the market administrator for qualification.

(2) *From disqualification orders.* A disqualification order by the market administrator shall become final 30 days after its service on the cooperative or federation unless within such 30-day period the cooperative or federation files a written petition with the Secretary for review thereof. If such petition for review is filed, payments for which the cooperative or federation has been disqualified by the order shall be held in reserve by the market administrator pending ruling of the Secretary after which the sums so held in reserve shall either be returned to the producer-settlement fund or paid over to the cooperative or federation depending on the Secretary's ruling on the petition. If such petition for review is not filed, any payments which otherwise would be made within the 30-day period following issuance of the disqualification order shall be held in reserve until such order becomes final and shall then be returned to the producer-settlement fund.

(3) *Record on appeal.* If an appeal is taken under subparagraphs (1) or (2) of this paragraph, the market administrator shall promptly certify to the Secretary the ruling or order appealed from and the evidence upon which it was issued: *Provided,* That if a hearing was held the complete record thereof, including the applications, petitions, and all exhibits or other documentary material submitted in evidence shall be the record so certified. Such certified material shall constitute the sole record upon which the appeal shall be decided by the Secretary.

(i) *Regulations.* The market administrator is authorized to issue regulations and amendments thereto to effectuate the provisions of this section and to facilitate and implement the administration of its provisions. Such regulations shall be issued in accordance with the following procedure:

(1) All proposed rules and regulations and amendments thereto shall be the subject of a meeting called by the market administrator, at which all interested persons shall have opportunity to be heard. Not less than five days prior to the meeting, notice thereof and of the proposed regulations or amendments shall be published in the FEDERAL REGISTER and mailed to qualified cooperatives and federations. A stenographic record shall be made at such meetings which shall be public information and be available for inspection at the office of the market administrator.

(2) A period of at least five days after the meeting shall be allowed for the filing of briefs.

(3) All regulations and amendments thereto issued by the market administrator pursuant to this section must be submitted in tentative form to the Secretary for approval, shall not be effective without such approval, and shall be published in the FEDERAL REGISTER following such approval. The regulations or amendments in tentative form shall be forwarded also to cooperatives and federations qualified under this section and to other persons upon request in writing. The Secretary shall either approve the regulations or amendments thereto submitted by the market administrator or direct the market administrator to reconsider the tentative rules or amendments. In the event the market administrator is directed to give reconsideration to the matter, the market administrator shall either issue revised tentative regulations or amendments or call another meeting pursuant to this section for additional consideration of the rules or amendments.

(j) *Reports and records.* A qualified cooperative or federation and any federated cooperative in a qualified federation shall make such reports to the market administrator as may be requested by him for the administration of the provisions of this section, and shall maintain and make available to the market administrator or his representative such records as will enable the market administrator to verify such reports.

(k) *Notices, demands, orders, etc.* All notices, demands, orders or other papers required by this section to be given to or served upon a cooperative or federation shall be deemed to have been given or served as of the time when mailed to the last known secretary of the cooperative or federation at his last known address.

(l) *Adjustment period.* Any cooperative which was qualified, on the effective date of this section, to receive payments pursuant to the provisions of this section as effective December 31, 1952 (referred to in this paragraph as the "former provisions") shall continue to receive payments pursuant to and subject to the conditions specified in such former provisions on milk received from producers during the 90-day period immediately following the effective date of this section; and if such cooperative has applied, or is a federated cooperative of a federation which has applied, for qualification pursuant to this section prior to the expiration of such 90-day period, it shall continue to receive payments pursuant to the former provisions beyond such 90-day period until such time as the market administrator has ruled upon such application: *Provided,* That a cooperative or a federation may be qualified to receive payments pursuant to this section within such 90-day period: *And provided further* That in no event shall a cooperative, or a federated cooperative in a federation, receive payment under the former provisions for any period following the effective date of qualification of the cooperative or federation under this section. For the purposes and to the extent specified in this paragraph, the provisions of this section as effective December 31, 1952, shall remain in force and effect after the effective date of this section.

[F. R. Doc. 53-8667; Filed, Oct. 9, 1953; 8:52 a. m.]

[7 CFR Part 965]

[Docket No. AO-166-A18]

HANDLING OF MILK IN CINCINNATI, OHIO, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practices and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of a public hearing to be conducted at the Sinton Hotel, Fourth and Vine Streets, Cincinnati, Ohio, beginning at 10:00 a. m., e. s. t., on October 16, 1953, for the purpose of receiving evidence with respect to proposed amendments set forth below, or appropriate modifications thereof, to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Cincinnati, Ohio, marketing area (7 CFR Part 965) and with respect to the emergency or other economic conditions which relate thereto. These proposed amendments were submitted by the K. I. O. Milk Producers Association, the Milk Producers Union, the Cincinnati Sales Association, and the Cooperative Pure Milk Association, and have not been approved by the Secretary of Agriculture.

1. Amend § 965.51 to provide an emergency price increase of 45 cents per hundredweight for Class I and Class II for the month of November 1953 and subsequent winter months, unless the supply-demand factor reaches or exceeds 45 cents per hundredweight on Class I and II as an emergency measure.

2. Amend § 965.51 (a) (3) by deleting the following: "the month of July shall not be more than such adjusted differential for the immediately preceding month of June and for each of the months of August and September the Class I differential adjusted pursuant to this subparagraph shall not be more than such adjusted differential for the immediately preceding month of June plus 30 cents;"

Substitute therefor the following: "the months of May, June, and July shall not be more than such adjusted differential for the immediately preceding month of April;"

Copies of this notice of hearing and of the aforesaid tentative marketing agreement and order may be procured from the market administrator, 152 East Fourth Street, P O. Box 1195, Cincinnati 1, Ohio, or from the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated. October 8, 1953, at Washington, D. C.

[SEAL] ROY W LENNARTSON,
Assistant Administrator

[F. R. Doc. 53-8693; Filed, Oct. 9, 1953; 8:54 a. m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 406]

COLLECTION OF INCOME TAX AT SOURCE ON WAGES UNDER SUBCHAPTER D OF CHAPTER 9 OF THE INTERNAL REVENUE CODE

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 1429 (53 Stat. 178; 26 U. S. C. 1429) section 1627 (57 Stat. 138; 26 U. S. C. 1627) and section 3791 (53 Stat. 467; 26 U. S. C. 3791) of the Internal Revenue Code and other provisions of the internal revenue laws.

[SEAL] T. COLEMAN ANDREWS,

Commissioner of Internal Revenue.

Subchapter C—Employment Taxes

[Regulations 120]

PART 406—COLLECTION OF INCOME TAX AT SOURCE ON WAGES; APPLICABLE ON AND AFTER JANUARY 1, 1954

SUBPART A—INTRODUCTORY PROVISIONS

SUBPART B—DEFINITIONS

SUBPART C—DETERMINATION OF TAX

SUBPART D—LIABILITY FOR TAX

SUBPART E—RECEIPTS

SUBPART F—RETURNS, PAYMENT OF TAX, AND RECORDS

SUBPART G—ADJUSTMENTS, REFUNDS, CREDITS, AND ABATEMENTS

SUBPART H—MISCELLANEOUS PROVISIONS

AUTHORITY: §§ 406.101 to 406.814 issued under sec. 1429, 53 Stat. 178, sec. 3791, 53 Stat. 467; 26 U. S. C. 1429, 3791. Interpret or apply sec. 1627, 57 Stat. 138; 26 U. S. C. 1627.

SUBPART A—INTRODUCTORY PROVISIONS

§ 406.100 *Statutory provisions; citation.*

SEC. 2. CITATION. (Pub. 1 (76th Cong.).) This act [enacting the Internal Revenue Code] and the internal revenue title incorporated herein shall be known as the Internal Revenue Code and may be cited as "I. R. C.".

§ 406.101 *Introduction.* These regulations, which constitute Part 406 of Title 26 of the Code of Federal Regulations, are prescribed under subchapter D, chapter 9, Internal Revenue Code. The applicable provisions of subchapter D, as well as certain applicable provisions of other internal revenue laws of particular importance, will be found in the appropriate places in, and are to be read in connection with, the regulations in this part. References to sections of law are references to the Internal Revenue Code unless otherwise expressly indicated. Inasmuch as these regulations constitute Part 406 of Title 26 of the Code of Federal Regulations, each section of the regulations bears a number commencing with 406 and a decimal point.

§ 406.102 *Scope of regulations.* (a) The regulations in this part relate to the collection of income tax at source on wages paid on or after January 1, 1954, regardless of when such wages were earned.

(b) The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 116, approved December 9, 1944 [26 CFR, Part 405], as amended, relating to the collection of income tax at source on wages under subchapter D, chapter 9, Internal Revenue Code, in force prior to January 1, 1954.

SUBPART B—DEFINITIONS

§ 406.200 *Statutory provisions; definitions; in general.*

SEC. 3797. DEFINITIONS.

(a) When used in this title [Internal Revenue Code] * * *—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, company, or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization. A person shall be recognized as a partner for income purposes if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or a partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

* * * * *

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) *State.* The word "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

* * * * *

(14) *Taxpayer.* The term "taxpayer" means any person subject to a tax imposed by this title.

* * * * *

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

* * * * *

[Sec. 3797 (a), as amended by sec. 511, Revenue Act 1942; sec. 4 (i), Pub. Law 291 (79th Cong.); sec. 340 (a), Revenue Act 1951.]

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

* * * * *

§ 406.201 *General definitions and use of terms.* As used in the regulations in this part—

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) "Internal Revenue Code" means the act approved February 10, 1939 (53 Stat., Part 1) entitled "An act to consolidate and codify the internal revenue laws of the United States," as amended.

(c) "Regulations 116" means the regulations approved December 9, 1944 (26 CFR, Part 405), as amended, relating to the collection of income tax at source on wages under subchapter D, chapter 9, Internal Revenue Code, in force prior to January 1, 1954.

(d) "Person" includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(e) "District director" means district director of internal revenue.

(f) "Identification number" means the identifying number of an employer assigned, as the case may be, under the Federal Insurance Contributions Act or Title VIII of the Social Security Act, or by the district director in accordance with § 406.606 (b) (3).

(g) "Calendar quarter" means a period of three calendar months ending on March 31, June 30, September 30, or December 31.

(h) The term "Armed Forces of the United States" includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force. The term also includes the Coast Guard. The members of such forces include commissioned officers and the personnel below the grade of commissioned officer in such forces.

(i) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

§ 406.202 *Statutory provisions; definitions; employee.*

SEC. 1621. DEFINITIONS.

As used in this subchapter [subchapter D of chapter 9]—

* * * * *

(c) *Employee.* The term "employee" includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term "employee" also includes an officer of a corporation.

[Sec. 1621 (c), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.203 *Employee.* (a) The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a State, Territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(b) Generally the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is not an employee.

(c) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are not employees.

(d) Whether the relationship of employer and employee exists will in doubtful cases be determined upon an exam-

mination of the particular facts of each case.

(e) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

(f) The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

(g) No distinction is made between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is not considered to be an employee of the corporation. A director of a corporation in his capacity as such is not an employee of the corporation.

(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 1621 (a)

§ 406.204 *Statutory provisions; definitions; employer.*

SEC. 1621. DEFINITIONS.
As used in this subchapter—

* * * * *

(d) *Employer.* The term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that—

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" (except for the purposes of subsection (a)) means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" (except for the purposes of subsection (a)) means such person.

[Sec. 1621 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.205 *Employer* (a) The term "employer" means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.

(b) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an "employer."

(c) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term "employer" means (except for the purpose of the definition of "wages") the person having such control. For example, where wages, such as certain types of pensions or retired pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the "employer."

(d) The term "employer" also means (except for the purpose of the definition of "wages") any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States)

(e) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax and furnishing the statements required under section 1633. The foregoing two special definitions of the term "employer" are designed solely to meet unusual situations. They are not intended as a departure from the basic purpose.

(f) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for or on behalf of the trust or estate, is generally the employer.

(g) The term "employer" embraces not only individuals and organizations engaged in trade or business, but organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the States, Territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.

§ 406.206 *Statutory provisions; definitions; wages.*

SEC. 1621. DEFINITIONS.
As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

(1) For active service as a member of the armed forces of the United States performed prior to January 1, 1955, in a month for which such member is entitled to the benefits of section 22 (b) (13), or

(2) For agricultural labor (as defined in section 1426 (h)); or

(3) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

(4) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter, or

(5) For services by a citizen or resident of the United States for a foreign government or an international organization or for the government of the Commonwealth of the Philippines, or

(6) For services performed by a nonresident alien individual, other than (A) a resident of a contiguous country who enters and leaves the United States at frequent intervals, or (B) a resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof, or

(7) For such services, performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

(8) (A) For services for an employer (other than the United States or any agency thereof) performed in a foreign country by a citizen of the United States, if at the time of the payment of such remuneration the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or it is reasonable to believe that such remuneration will be excluded from gross income under the provisions of section 116 (a) (1) or (2), or

(B) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 per centum of the remuneration to be paid to the employee by such employer during the calendar year will be for such services, or

(C) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico, or

(9) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or

(10) (A) For services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(B) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back, or

(11) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or

(12) To, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6).

[Sec. 1621 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.) sec. 10, Pub. Law 384 (80th Cong.) sec. 209 (c), Social Security Act Amendments 1950; secs. 202 (b), 221 (f) (1), and (2), Revenue Act 1950; secs. 305 (c), 321 (b), Revenue Act 1951; sec. 2, Pub. Law 213 (83d Cong.).]

* * * * *

§ 406.207 *Wages*—(a) *In general.* (1) The term "wages" means all remuneration for services performed by an employee for his employer unless specifically excepted under section 1621 (a) or excepted under section 1622 (g) See §§ 406.206 to 406.232, inclusive.

(2) The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions, and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

(3) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

(4) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, stocks, bonds, or other forms of property. If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages subject to withholding. If the services were rendered at a stipulated price, in the absence of evidence to the contrary such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

(5) If a person receives as remuneration for services rendered a salary and in addition thereto living quarters or meals, the value to such person of the quarters and meals so furnished shall be added to the remuneration otherwise paid for the purpose of determining the amount of wages subject to withholding. If, however, living quarters or meals are furnished to an employee for the convenience of the employer, the value thereof need not be included as wages subject to withholding.

(6) Ordinarily facilities or privileges (such as entertainment, medical services, or so-called "courtesy" discounts on purchases) furnished or offered by an employer to his employees generally are not considered as wages subject to withholding if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees.

(7) Where wages are paid in property other than cash, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the district director.

(8) Tips or gratuities paid directly to an employee by a customer of an employer, and not accounted for by the employee to the employer, are not subject to withholding.

(9) Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person in whose employ the services were performed and the individual who performed them.

Example. A is employed by R during the month of January 1954 and is entitled to receive remuneration of $100 for the services performed for R, the employer, during the month. A leaves the employ of R at the close of business on January 31, 1954. On February 15, 1954 (when A is no longer an employee of R), R pays A the remuneration of $100 which was earned for the services performed in January. The $100 is wages within the meaning of the statute.

(b) *Pensions and retirement pay.* (1) In general, pensions and retired pay are wages subject to withholding. However, no withholding is required with respect to amounts paid to an employee upon retirement which are taxable as annuities under the provisions of section 22 (b) (2) So-called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages. Those payments of pensions or other benefits by the Federal Government under Title 38 of the United States Code which are excluded from gross income are not wages subject to withholding.

(2) Retirement pay for service in the Armed Forces of the United States is subject to withholding unless such pay is excluded from gross income under section 22 (b) (5) Where such retirement pay (not excluded from gross income under section 22 (b) (5)) is paid to a nonresident alien individual, withholding is required only in the case of such amounts paid to a nonresident alien individual who is a resident of Puerto Rico.

(c) *Traveling and other expenses.* Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(d) *Vacation allowances.* Amounts of so-called "vacation allowances" paid to an employee constitute wages. Thus, the salary of an employee on vacation, paid notwithstanding his absence from work, constitutes wages.

(e) *Dismissal payments.* Any payments made by an employer to an employee on account of dismissal, that is, involuntary separation from the service of the employer, constitute wages regardless of whether the employer is legally bound by contract, statute, or otherwise to make such payments.

(f) *Deductions by employer from wages of employee.* The amount of any tax which is required by law to be deducted by the employer from the wages of an employee is considered to be a part of the employee's wages and is deemed to be paid to the employee as wages at the time the deduction is made. Other amounts deducted from the wages of an employee by an employer also constitute wages paid to the employee at the time of the deduction. It is immaterial that the Internal Revenue Code, or any Act of Congress, or the law of any State or of Puerto Rico, requires or permits such deductions and the payment of the amounts thereof to the United States, a State, a Territory, Puerto Rico, or the District of Columbia, or any political subdivision of any one or more of the foregoing.

(g) *Payment by an employer of employee's tax, or employee's contributions under a State law.* The term "wages" includes the amount paid by an employer on behalf of an employee (without deduction from the remuneration of, or other reimbursements from, the employee) on account of any payment required from an employee under a State unemployment compensation law, or on account of any tax imposed upon the employee by any taxing authority, including the taxes imposed by sections 1400 and 1500.

(h) *Remuneration for services as employee of nonresident alien individual or foreign entity.* The term "wages" includes remuneration for services performed by a citizen or resident of the United States as an employee of a nonresident alien individual, foreign partnership, or foreign corporation whether or not such alien individual or foreign entity is engaged in trade or business within the United States. Any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States (including Puerto Rico as if a part of the United States) is subject to all the provisions of law and regulations applicable with respect to an employer. See § 406.205. See § 406.226 (c) for the treatment of wages paid for services performed by a citizen of the United States in Puerto Rico.

§ 406.208 *Exclusions from wages.* (a) Remuneration for services performed by an employee for his employer does not constitute wages for purposes of withholding if it is specifically excepted from wages under any of the numbered paragraphs of section 1621 (a) Remuneration so excepted does not constitute wages for purposes of withholding even though it is for services performed within the United States or for services performed outside the United States by a citizen of the United States for an American employer.

(b) The exception attaches to the remuneration for services performed by an employee and not to the employee as an individual; that is, the exception applies only to the remuneration in an excepted category.

Example. A is an individual who is employed part time by B to perform domestic service in his home (see § 406.218). A is also employed by C part time to perform services as a clerk in a department store owned by him. While no withholding is required with respect to A's remuneration for services performed in the employ of B (the remuneration being excluded from wages), the exception does not embrace the remuneration for services performed by A in the employ of C and withholding is required with respect to the wages for such services.

(c) For provisions relating to the circumstances under which remuneration which is excepted is nevertheless deemed to be wages, and relating to the circumstances under which remuneration which is not excepted is nevertheless deemed not to be wages, see § 406.210.

§ 406.209 *Statutory provisions; income tax collected at source; included and excluded wages.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(g) *Included and excluded wages.* If the remuneration paid by an employer to an employee for services performed during one-half or more of any payroll period of not more than thirty-one consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one-half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

[Sec. 1622 (g), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.210 *Included and excluded wages.* (a) If a portion of the remuneration paid by an employer to his employee for services performed during a payroll period constitutes wages, and the remainder does not constitute wages, all the remuneration paid the employee for services performed during such period shall for purposes of withholding be treated alike, that is, either all included as wages or all excluded. The time during which the employee performs services, the remuneration for which under section 1621 (a) constitutes wages, and the time during which he performs services, the remuneration for which under such section does not constitute wages, determine whether all the remuneration for services performed during the payroll period shall be deemed to be included or excluded.

(b) If one-half or more of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then all the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

(c) If less than one-half of the employee's time in the employ of a particular person in a payroll period is spent in performing services the remuneration for which constitutes wages, then none of the remuneration paid the employee for services performed in that payroll period shall be deemed to be wages.

Example (1). Employee A is employed by B who operates a farm and a store. The remuneration paid A for services on the farm is excepted as remuneration for agricultural labor, and the remuneration for services performed in the store constitutes wages. Employee A is paid on a monthly basis. During a particular month, A works 120 hours on the farm and 80 hours in the store. None of the remuneration paid A for services performed during the month is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the month constitutes wages.

During another month A works 75 hours on the farm and 120 hours in the store. All of the remuneration paid A for services performed during the month is deemed to be wages since the remuneration paid for one-half or more of the services performed during the month constitutes wages.

Example (2). Employee C is employed as a maid by D, a physician, whose home and office are located in the same building. The remuneration paid C for services in the home is excepted as remuneration for domestic service, and the remuneration paid for her services in the office constitutes wages. C is paid on a weekly basis. During a particular week C works 20 hours in the home and 20 hours in the office. All of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for one-half or more of the services performed during the week constitutes wages.

During another week C works 22 hours in the home and 15 hours in the office. None of the remuneration paid C for services performed during that week is deemed to be wages, since the remuneration paid for less than one-half of the services performed during the week constitutes wages.

(d) The rules set forth in this section do not apply (1) with respect to any remuneration paid for services performed by an employee for his employer if the periods for which remuneration is paid by the employer vary to the extent that there is no period which constitutes a payroll period within the meaning of section 1621 (b), or (2) with respect to any remuneration paid for services performed by an employee for his employer if the payroll period for which remuneration is paid exceeds 31 consecutive days. In any such case withholding is required with respect to that portion of such remuneration which constitutes wages.

§ 406.211 *Statutory provisions; definitions; wages; public official.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, * * *

[Sec. 1621 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.); sec. 10, Pub. Law 334 (80th Cong.); sec. 209 (c), Social Security Act Amendments 1950; secs. 202 (b), 221 (f) (1), and (2), Revenue Act 1950; secs. 305 (c), 321 (b), Revenue Act 1951.]

* * * * *

§ 406.212 *Fees paid a public official.* (a) Authorized fees paid to public officials such as notaries public, clerks of courts, sheriffs, etc., for services rendered in the performance of their official duties are excepted from the definition of the term "wages" and hence are not subject to withholding. However, salaries paid such officials by the Government, or Government agency or instrumentality, are subject to withholding.

(b) Amounts paid to precinct workers for services performed at election booths in State, county, and municipal elections and fees paid to jurors and witnesses are in the nature of fees paid to public officials and therefore are not subject to withholding.

§ 406.213 *Statutory provisions; definitions; wages; members of the Armed Forces.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

(1) For active service as a member of the armed forces of the United States performed prior to January 1, 1955, in a month for which such member is entitled to the benefits of section 22 (b) (13), or

[Sec. 1621 (a) (1), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 10, Pub. Law 324 (80th Cong.); sec. 202 (b), Revenue Act 1950; sec. 305 (c), Revenue Act 1951; sec. 2, Pub. Law 213 (83d Cong.).]

* * * * *

§ 406.214 *Remuneration of members of the Armed Forces of the United States for active service in combat zone or while hospitalized as a result of such service.* Remuneration paid for active service as a member of the Armed Forces of the United States performed prior to January 1, 1955, in a month during any part of which such member served in a combat zone (as determined under section 22 (b) (13)) or is hospitalized at any place as a result of wounds, disease, or injury incurred while serving in such a combat zone, is excepted from the definition of the term "wages" and is, therefore, not subject to withholding. The exception with respect to hospitalization is applicable, however, only if during all of such month there are combatant activities in some combat zone (as determined under section 22 (b) (13)).

§ 406.215 *Statutory provisions; definitions; wages; agricultural labor.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(2) For agricultural labor (as defined in section 1426 (h)), or

[Sec. 1621 (a) (2), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 1426. DEFINITIONS.

When used in this subchapter [subchapter A of chapter 9]—

* * * * *

(h) *Agricultural Labor.* The term "agricultural labor" includes all service performed—

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(4) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed.

(B) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For the purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than twenty at any time during the calendar quarter in which such service is performed.

(C) The provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(5) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

[Sec. 1426 (h), as added by sec. 606, Social Security Act Amendments 1939, and as amended by sec. 204 (d), Social Security Act Amendments 1950.]

* * * * *

SEC. 15. MISCELLANEOUS PROVISIONS (AGRICULTURAL MARKETING ACT).

* * * * *

(g) As used in this act, the term "agricultural commodity" includes * * * crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in the Naval Stores Act, approved March 3, 1923.

[Sec. 15 (g), Pub. Law 10 (71st Cong.), as added by sec. 3, Pub. Law 867 (71st Cong.).]

SEC. 2. (THE NAVAL STORES ACT).

That, when used in this act—

* * * * *

(c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.

* * * * *

(h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

[Sec. 2 (c), (h), Pub. Law 478 (67th Cong.).]

* * * * *

§ 406.216 *Remuneration for agricultural labor*—(a) *In general.* (1) The term "wages" does not include remuneration for services which constitute agricultural labor as defined in section 1426 (h). The term "agricultural labor" as so defined includes services of a character described in paragraphs (b) (c) (d) (e) and (f) of this section. In general, however, the term agricultural labor does not include services performed in connection with forestry, lumbering, or landscaping.

(2) The term "farm" as used in the regulations in this part includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for other purposes (for example, display, storage, and fabrication of wreaths, corsages, and bouquets) do not constitute "farms."

(b) *Services described in section 1426 (h) (1)* (1) Remuneration paid for services performed on a farm by an employee of any person in connection with any of the following activities is excepted as remuneration for agricultural labor:

(i) The cultivation of the soil;

(ii) The raising, shearing, feeding, caring for, training, or management of livestock, bees, poultry, fur-bearing animals, or wildlife; or

(iii) The raising or harvesting of any other agricultural or horticultural commodity.

(2) Remuneration paid for services performed in connection with the production or harvesting of maple sap, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry is excepted only if such services are performed on a farm. Thus, services performed in connection with the operation of a hatchery, if not operated as part of a poultry or other farm, do not constitute agricultural labor. Services performed in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar do not constitute agricultural labor, even though such services are performed on a farm.

(c) *Services described in section 1426 (h) (2).* (1) The remuneration paid for the following services performed by an employee in the employ of the owner or tenant or other operator of one or more farms is excepted as remuneration for agricultural labor, provided the major part of such services is performed on a farm:

(i) Services performed in connection with the operation, management, conservation, improvement, or maintenance of any of such farms or its tools or equipment; or

(ii) Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane.

(2) The services described in subparagraph (1) (i) of this paragraph may include, for example, services performed by carpenters, painters, mechanics, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers, which contribute in any way to the conduct of the farm or farms, as such, operated by the person employing them, as distinguished from any other enterprise in which such person may be engaged.

(3) Since the services described in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm, the exception does not extend to remuneration paid for services performed by employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

(d) *Services described in section 1426 (h) (3)* Remuneration paid for services performed by an employee in the employ of any person in connection with any of the following operations is excepted as remuneration for agricultural labor without regard to the place where such services are performed:

(1) The ginning of cotton;

(2) The operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying or storing water for farming purposes; or

(3) The production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into gum spirits of turpentine and gum rosin, provided such processing is carried on by the original producer of such crude gum.

(e) *Services described in section 1426 (h) (4)* (1) Remuneration paid for services performed by an employee in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of any agricultural or horticultural commodity is excepted as remuneration for agricultural labor if:

(i) Such services are performed by the employee in the employ of an operator of a farm or in the employ of a group of operators of farms (other than a cooperative organization),

(ii) Such services are performed with respect to the commodity in its unmanufactured state; and

(iii) (*a*) Such operator produced more than one-half of the commodity with respect to which such services are performed during the pay period, or (*b*) such group of operators produced all of the commodity with respect to which such services are performed during the pay period.

(2) The term "operator of a farm" as used in this paragraph means an owner, tenant, or other person, in possession of a farm and engaged in the operation of such farm.

(3) The services described in this paragraph do not constitute agricultural labor if performed in the employ of a cooperative organization. The term "organization" includes corporations, joint-stock companies, and associations which are treated as corporations under the Internal Revenue Code. For the purposes of this paragraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such

group is more than 20 at any time during the calendar quarter in which the services involved are performed.

(4) Processing services which change the commodity from its raw or natural state do not constitute agricultural labor. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, does not constitute agricultural labor. On the other hand, services rendered in the cutting and drying of fruits or vegetables are processing operations which do not change the character of the fruits or vegetables and, therefore, constitute agricultural labor, if the other requisite conditions are met. Services performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation do not constitute agricultural labor.

(5) The term "commodity" refers to a single agricultural or horticultural product, for example, all apples are to be treated as a single commodity, while apples and peaches are to be treated as two separate commodities. The services with respect to each such commodity are to be considered separately in determining whether the condition set forth in subparagraph (1) (iii) of this paragraph has been satisfied. The portion of the commodity produced by an operator or group of operators with respect to which the services described in this paragraph are performed by a particular employee shall be determined on the basis of the pay period in which such services were performed by such employee.

(6) The services described in this paragraph do not include services performed in connection with commercial canning or commercial freezing, or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in this paragraph must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of paragraph (c) of this section.

(f) *Services described in section 1426 (h) (5)* Remuneration paid for services not in the course of the employer's trade or business (see § 406.220) or for domestic service in a private home of the employer (see § 406.218) is excepted as remuneration for agricultural labor if such services are performed on a farm operated for profit. Generally, a farm is not operated for profit if it is occupied by the employer primarily for residential purposes, or is used primarily for the pleasure of the employer or his family such as for the entertainment of guests or as a hobby of the employer or his family.

§ 406.217 *Statutory provisions; definitions; wages; domestic service.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *. except that such term shall not include remuneration paid—

* * * * *

(3) For domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

[Sec. 1621 (a) (3), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.218 *Remuneration for domestic service.* (a) Remuneration paid for services of a household nature performed by an employee in or about the private home of the person by whom he is employed, or performed in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority by which he is employed, is excepted from the term "wages."

(b) A private home is the fixed place of abode of an individual or family.

(c) A local college club or local chapter of a college fraternity or sorority does not include an alumni club or chapter.

(d) If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home and the remuneration paid for services performed therein is not excepted. Likewise, if the club rooms or house of a local college club or local chapter of a college fraternity or sorority is used primarily for such purpose, the remuneration paid for services performed therein is not within the exception.

(e) In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. In general, services of a household nature in or about the club rooms or house of a local college club or local chapter of a college fraternity or sorority include services rendered by cooks, waiters, butlers, maids, janitors, laundresses, furnacemen, handymen, gardeners, housekeepers, and housemothers.

(f) The remuneration paid for services of a household nature is not within the exception if performed in or about rooming or lodging houses, boarding houses, clubs (except local college clubs) hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.

(g) Remuneration paid for services performed as a private secretary, even though performed in the employer's home, is not within the exception.

§ 406.219 *Statutory provisions; definitions; wages; service not in the course of employer's trade or business.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *. except that such term shall not include remuneration paid—

* * * * *

(4) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (B) such individual was regularly employed (as determined under clause (A)) by such employer in the performance of such service during the preceding calendar quarter, or

* * * * *

(11) For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash, or

[Sec. 1621 (a) (4), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 209 (c), Social Security Act Amendments 1950; and sec. 1621 (a) (11), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.220 *Remuneration for service not in the course of employer's trade or business.* (a) The term "wages" does not include remuneration paid in any medium other than cash for service not in the course of the employer's trade or business. Cash remuneration paid for service not in the course of the employer's trade or business performed by an employee for an employer in a calendar quarter is excepted from the term "wages" unless—

(1) The cash remuneration paid for such service performed by the employee for the employer in the calendar quarter is $50 or more; and

(2) Such employee is regularly employed in the calendar quarter by such employer to perform such service.

Unless the tests set forth in both subparagraphs (1) and (2) of this paragraph are met, cash remuneration for service not in the course of the employer's trade or business is excluded from wages.

(b) The term "service not in the course of the employer's trade or business" includes service that does not promote or advance the trade or business of the employer. Remuneration paid for service performed for a corporation does not come within the exception.

(c) The test relating to cash remuneration of $50 or more is based on the remuneration earned during a calendar quarter rather than on the remuneration paid in a calendar quarter. However, for purposes of determining whether the test is met, it is also re-

quired that the remuneration be paid, although it is immaterial when the remuneration is paid. Furthermore, in determining whether $50 or more has been paid for service not in the course of the employer's trade or business, only cash remuneration for such service shall be taken into account. The term "cash remuneration" includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met.

(d) For the purposes of this exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if:

(1) Such individual performs service not in the course of the employer's trade or business for such employer for some portion of the day on at least 24 days (whether or not consecutive) during such calendar quarter; or

(2) Such individual was regularly employed (as determined under subparagraph (1)) by such employer in the performance of service not in the course of the employer's trade or business during the preceding calendar quarter.

(e) In determining whether an employee has performed service not in the course of the employer's trade or business on at least 24 days during a calendar quarter, there shall be counted as one day—

(1) Any day or portion thereof on which the employee actually performs such service; and

(2) Any day or portion thereof on which the employee does not perform service of the prescribed character but with respect to which cash remuneration is paid or payable to the employee for such service, such as a day on which the employee is sick or on vacation.

An employee who on a particular day reports for work and, at the direction of his employer, holds himself in readiness to perform service not in the course of the employer's trade or business shall be considered to be engaged in the actual performance of such service on that day. For the purposes of this exception, a day is a period of 24 hours commencing at midnight and ending at midnight.

(f) For provisions relating to service not in the course of the employer's trade or business and domestic service performed on a farm operated for profit, see § 406.216 (f). For provisions relating to domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, see § 406.218.

§ 406.221 *Statutory provisions; definitions; wages; foreign government or international organization.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *- except that such term shall not include remuneration paid—

* * * * *

(5) For services by a citizen or resident of the United States for a foreign government or an international organization or for the government of the Commonwealth of the Philippines, or

[Sec. 1621 (a) (5), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 4 (e), Pub. Law 291 (79th Cong.).]

* * * * *

SEC. 3797. DEFINITIONS.

(a) When used in this title * * *

* * * * *

(18) *International organization.* The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act.

[Sec. 3797 (a) (18), as added by sec. 4 (1), Pub. Law 291 (79th Cong.).]

* * * * *

SEC. 1. (INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT).

For the purposes of this title [International Organizations Immunities Act], the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

[Sec. 1, Pub. Law 291 (79th Cong.).]

§ 406.222 *Remuneration for services for foreign government or international organization*—(a) *Services for foreign government.* (1) Remuneration paid for services performed as an employee of a foreign government, or the government of the Commonwealth of the Philippines, is excepted. The exception includes not only remuneration paid for services performed by ambassadors, ministers, and other diplomatic officers and employees but also remuneration paid for services performed as a consular or other officer or employee of a foreign government, or the government of the Commonwealth of the Philippines, or as a nondiplomatic representative of such a government. However, the exception does not include remuneration for services performed for a corporation created or organized in the United States or under the laws of the United States or of any State (including the District of Columbia or the Territory of Alaska or Hawaii) or of Puerto Rico even though such corporation is wholly owned by such a government.

(2) The citizenship or residence of the employee and the place where the services are performed are immaterial for purposes of the exception.

(b) *Services for international organization.* Subject to the provisions of section 1 of the International Organizations Immunities Act, remuneration paid for services performed within or without the United States by an employee for an international organization as defined in section 3797 (a) (18) is excepted from the term "wages." The term "employee" as used in the preceding sentence includes not only an employee who is a citizen or resident of the United States but also an employee who is a nonresident alien individual. The term "employee" also includes an officer. An organization designated by the President through appropriate Executive order as entitled to enjoy the privileges, exemptions, and immunities provided in the International Organizations Immunities Act may enjoy the benefits of the exclusion from wages with respect to remuneration paid for services performed for such organization prior to the date of the issuance of such Executive order, if (1) the Executive order does not provide otherwise and (2) the organization is a public international organization in which the United States participates, pursuant to a treaty or under the authority of an Act of Congress authorizing such participation or making an appropriation for such participation, at the time such services are performed.

§ 406.223 *Statutory provisions; definitions; wages; nonresident aliens.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *- except that such term shall not include remuneration paid—

* * * * *

(6) For services performed by a nonresident alien individual, other than (A) a resident of a contiguous country who enters and leaves the United States at frequent intervals, or (B) a resident of Puerto Rico if such services are performed as an employee of the United States or any agency thereof, or

(7) For such services performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

[Sec. 1621 (a) (6), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 221 (f) (1), Revenue Act 1950; and sec. 1621 (a) (7), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.224 *Remuneration for services of nonresident alien individuals.* (a) Except in the case of certain nonresident alien individuals who are residents of Canada, Mexico, and Puerto Rico, remuneration for services performed by nonresident alien individuals does not constitute wages subject to withholding under section 1622. For withholding of income tax on wages paid for services performed within the United States in the case of nonresident alien individuals generally, see section 143 and regulations thereunder.

(b) Withholding is required in the case of wages paid to nonresident aliens who are residents of a contiguous coun-

try (Canada or Mexico) and who enter and leave the United States at frequent intervals, except such aliens who, in the performance of their duties in transportation service between points in the United States and points in a contiguous country, enter and leave the United States at frequent intervals. This exception applies to personnel engaged in railroad, ferry, steamboat, and aircraft services and applies alike whether the employer is a domestic or foreign entity. Thus, the wages of a nonresident alien individual who is a resident of Canada and an employee of a domestic railroad, for services as a member of the crew of a train operating between points in Canada and points in the United States, shall not be subject to withholding under section 1622. The exemption, however, has no application to a resident of Canada who, for example, is employed at a fixed point in the United States, such as a factory, store, or office, and who commutes from his home in Canada in the pursuit of his employment within the United States; nor does it apply to an alien employee of a railroad corporation who is on duty within the United States, even though he enters and leaves the United States in reaching his place of employment from his home in a contiguous country.

(c) In order for the exemption to apply, the nonresident alien employee must file with his employer a certificate containing the following: The employee's name and address, and a statement that he is not a citizen of the United States, and that he is a resident of the named contiguous country and the approximate period of time during which he has occupied such status. Such certificate shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. Although the form is not prescribed, the certificate must contain all the information required by this section.

(d) Withholding is not required in the case of wages paid to a nonresident alien individual for services performed in Puerto Rico for an employer (other than the United States or any agency thereof) even though such alien individual is a resident of Puerto Rico at the time when such services are performed. Wages paid for services performed by a nonresident alien individual who is a resident of Puerto Rico are subject to withholding if such services are performed as an employee of the United States or any agency thereof. The place of performance of such services is immaterial, provided such alien individual is a resident of Puerto Rico at the time of performance. Wages representing retired pay for service in the Armed Forces of the United States are subject to withholding under the limitations specified in § 406.207 (b) (2) in the case of an alien resident of Puerto Rico.

§ 406.225 *Statutory provisions: definitions; wages; citizens outside the United States.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * * except that such term shall not include remuneration paid—

* * * * *

(8) (A) For services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or

(B) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States (other than Puerto Rico), if it is reasonable to believe that at least 80 per centum of the remuneration to be paid to the employee by such employer during the calendar year will be for such services, or

(C) For services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within Puerto Rico, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of Puerto Rico, or

[Sec. 1621 (a) (8), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 10, Pub. Law 384 (80th Cong.); sec. 221 (f) (2), Revenue Act 1950; sec. 321 (b), Revenue Act 1951; sec. 204 (b), Technical Changes Act 1953.]

* * * * *

SEC. 116. EXCLUSIONS FROM GROSS INCOME.

In addition to the items specified in section 22 (b), the following items shall not be included in gross income and shall be exempt from taxation under this chapter [Chapter I]:

(a) *Earned income from sources without the United States*—(1) *Bona fide resident of foreign country.* In the case of an individual citizen of the United States, who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts constitute earned income (as defined in paragraph (3)) attributable to such period; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this paragraph.

(2) *Presence in foreign country for 17 months.* In the case of an individual citizen of the United States, who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) if such amounts constitute earned income (as defined in paragraph (3)) attributable to such period; but such individual shall not be allowed as a deduction from his gross income any deductions properly allocable to or chargeable against amounts excluded from gross income under this paragraph. If the 18-month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year.

[Sec. 116 (a) (1), (2), as amended by sec. 148 (a), Revenue Act 1942; sec. 107, Revenue Act 1943; sec. 321 (a), Revenue Act 1951; sec. 204 (a), Technical Changes Act 1953.]

* * * * *

§ 406.226 *Remuneration for services of citizens outside the United States*—(a) *Citizens in foreign countries*—(1) *Elimination of double withholding.* (i) The remuneration paid for services performed in a foreign country for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of the payment of such remuneration the employer is required by the law of any foreign country to withhold income tax upon such remuneration.

(ii) The remuneration is not exempt from withholding under this subparagraph if the employer is not required by the law of a foreign country to withhold income tax upon such remuneration. Mere agreements between the employer and the employee whereby the estimated income tax of a foreign country is withheld from the remuneration in anticipation of actual liability under the law of such country will not suffice.

(iii) The exemption from withholding provided by this subparagraph does not apply by reason of withholding of income tax pursuant to the law of a possession or territory of the United States or of a political subdivision of a foreign state.

(2) *Resident of a foreign country.* (i) The remuneration paid for services performed outside the United States for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of payment it is reasonable to believe that such remuneration will be excluded from gross income under the provisions of section 116 (a) (1).

(ii) Section 116 (a) (1) provides that, in the case of an individual citizen of the United States who establishes to the satisfaction of the Commissioner that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, all amounts received from sources without the United States (except amounts paid by the United States or any agency or instrumentality thereof) shall be excluded from gross income if such amounts constitute earned income, as defined in section 116 (a) (3) which is attributable to such uninterrupted period. See section 116 (a) and the regulations thereunder.

(iii) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that remuneration for services performed outside the United States during the taxable year, or applicable portion thereof, will be excluded from gross income under the provisions of section 116 (a) (1) for each taxable year in respect of which the employee properly executes and files in duplicate with the employer a statement in the following form:

STATEMENT FOR CLAIMING BENEFIT OF SECTION 116 (a) (1)

For calendar year _____
or fiscal year
beginning _____ and ending _____

(A) My name is _____. My present address is _____. I am employed by _____.

(B) My last address in the United States was _____. The internal revenue district in which I filed my last income tax return is _____.

(C) I _____ file my income
(Do or do not)
tax return on the calendar-year basis.

(D) I file my income tax return on the basis of the fiscal year beginning _____ ____, 19____, and ending _____ ____, 19____.

(E) I am a citizen of the United States.

(F) I have been a bona fide resident of the following foreign country or countries, namely, _____, for an uninterrupted period which began on _____ ____, 19____.

(G) I expect to remain a bona fide resident of a foreign country or countries from the date of this statement until the end of the taxable year in respect of which this statement is filed.

(H) On the basis of the facts in my case I have good reason to believe that, with respect to the above period of foreign residence falling within the taxable year, I will satisfy the bona fide foreign-residence requirement prescribed by section 116 (a) (1) of the Internal Revenue Code.

(I) I understand that any exemption from withholding of tax permitted by reason of the filing of this statement is not a determination by the Commissioner of Internal Revenue that any remuneration paid to me for any services performed during the taxable year is excludable from gross income under the provisions of section 116 (a) (1) of the Internal Revenue Code.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

_____
(Signature of taxpayer)

Date: _____, 19____.

(iv) If with respect to any employee the employer was entitled to presume for the two consecutive taxable years immediately preceding the employee's current taxable year that the employee's remuneration for services performed outside the United States during such preceding taxable years would be excluded from gross income under the provisions of section 116 (a) (1), he may, if such employee is residing in a foreign country on the first day of such current taxable year, presume that, in the absence of cause for a reasonable belief to the contrary, the remuneration for services performed outside the United States during such current taxable year will be excluded from gross income under the provisions of section 116 (a) (1).

(3) *Physical presence in a foreign country.* (i) The remuneration paid for services performed outside the United States for an employer (other than the United States or any agency or instrumentality thereof) by a citizen of the United States does not constitute wages and hence is not subject to withholding, if at the time of payment it is reasonable to believe that such remuneration will be excluded from gross income under the provisions of section 116 (a) (2).

(ii) Section 116 (a) (2) provides that, in the case of an individual citizen of the United States who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period, amounts received from sources without the United States (except amounts paid by the United States or any agency or instrumentality thereof) shall be excluded from gross income if such amounts constitute earned income, as defined in section 116 (a) (3) which is attributable to such period. However, the total amount so excluded from gross income under the provisions of such section shall not exceed $20,000 for each taxable year if the 18-month period includes the entire taxable year. If the 18-month period does not include the entire taxable year, the amount excluded from gross income under such section for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year. See section 116 (a) and the regulations thereunder.

(iii) The employer may, in the absence of cause for a reasonable belief to the contrary, presume that remuneration for services performed outside the United States during the taxable year, or applicable portion thereof, will be excluded from gross income under the provisions of section 116 (a) (2) for each taxable year in respect of which the employee properly executes and files in duplicate with the employer a statement in the form set forth below. The presumption shall not apply after the total payments made during the taxable year of the employee equal $20,000 or such lesser amount as may be allowable under section 116 (a) (2) on the basis of the facts shown in such statement.

STATEMENT FOR CLAIMING BENEFIT OF SECTION 116 (a) (2)

For calendar year _____
or fiscal year
beginning _____ and ending _____

(A) My name is _____. My present address is _____. I am employed by _____.

(B) My last address in the United States was _____. The internal revenue district in which I filed my last income tax return is _____.

(C) I _____ file my income
(Do or do not)
tax return on the calendar-year basis.

(D) I file my income tax return on the basis of the fiscal year beginning _____ ____, 19____, and ending _____ ____, 19____.

(E) I am a citizen of the United States.

(F) Except for occasional absences which have not disqualified me for the benefit of section 116 (a) (2) of the Internal Revenue Code, I have been present in the following foreign country or countries, namely _____, during the period of time which began on _____ ____, 19____.

(G) I expect to be present in a foreign country or countries, except for occasional absences not disqualifying me for the benefit of section 116 (a) (2), from the date of this statement until the end of the taxable year in respect of which this statement is filed, or, if not for such period, from the date of this statement until the following date within such taxable year, namely, _____ ____, 19____.

(H) On the basis of the facts in my case I have good reason to believe that, with respect to the above period of presence in a foreign country or countries falling within the taxable year, I will satisfy the 510 full-day requirement prescribed by section 116 (a) (2) of the Internal Revenue Code.

(I) In the event I become disqualified for the exclusion provided by section 116 (a) (2) in respect of all or part of the above period of presence in a foreign country or countries falling within the taxable year, I will immediately notify my employer, giving sufficient facts to indicate the part, if any, of such period falling within such year in respect of which I am qualified for such exclusion.

(J) I understand that any exemption from withholding of tax permitted by reason of the filing of this statement is not a determination by the Commissioner of Internal Revenue that any remuneration paid to me for any services performed during the taxable year is excludable from gross income under the provisions of section 116 (a) (2) of the Internal Revenue Code.

I declare under the penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is true and correct.

_____
(Signature of taxpayer)

Date: _____ ____, 19____.

(4) *General.* The original of each statement filed with the employer pursuant to subparagraphs (2) and (3) of this paragraph (a) shall be transmitted to the district director with the employer's return on Form 941 required by § 406.601 for the quarter of the calendar year within which such statement is filed. The duplicate copy shall be retained by the employer.

(b) *Citizens in possessions of the United States other than Puerto Rico.* (1) Remuneration paid for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States within a possession of the United States, other than Puerto Rico, is not subject to withholding, if it is reasonable to believe that at least 80 percent of the remuneration to be paid to the employee by such employer during the calendar year will be for such services.

(2) Withholding is required in the case of remuneration paid to a citizen of the United States for services performed as an employee of the United States or any agency thereof in any possession of the United States, including Puerto Rico.

(c) *Citizens in Puerto Rico.* (1) Remuneration paid for services performed within Puerto Rico for an employer (other than the United States or any agency thereof) by a citizen of the United States is not subject to withholding, if it is reasonable to believe that during the entire calendar year the em-

ployee will be a bona fide resident of Puerto Rico.

(2) In addition, the employer may, in the absence of cause for a reasonable belief to the contrary, presume that an employee will be a bona fide resident of Puerto Rico during the entire calendar year—

(i) In every case except where the employee is known by the employer to have maintained his abode at a place outside Puerto Rico at some time during the current or the preceding calendar year; or

(ii) In every case where the employee files with the employer a statement (containing a declaration under the penalties of perjury that such statement is true to the best of the employee's knowledge and belief) that such employee has at all times during the current calendar year been a bona fide resident of Puerto Rico and that he intends to remain a bona fide resident of Puerto Rico during the entire remaining portion of such current calendar year.

(d) *Reasonable belief.* The reasonable belief referred to in subparagraph (A) (B) or (C) of section 1621 (a) (8) may be based upon any evidence reasonably sufficient to induce such belief, even though such evidence may be insufficient upon closer examination by the Commissioner or the courts finally to establish that the remuneration is excludable from gross income under the provisions of section 116 (a) section 116 (l) or section 251.

§ 406.227 *Statutory provisions; definitions; wages; minister of a church.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(9) For services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order, or

[Sec. 1621 (a) (9), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.228 *Remuneration for services performed by a minister of a church or by a member of a religious order* Remuneration paid for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order, is not subject to withholding under section 1622. The duties of ministers include the ministration of sacerdotal functions and the conduct of religious worship, and the control, conduct, and maintenance of religious organizations (including the religious boards, societies, and other integral agencies of such organizations) under the authority of a religious body constituting a church or church denomination.

§ 406.229 *Statutory provisions; definitions; wages; delivery or distribution of newspapers.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(10) (A) For services performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, or

(B) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

[Sec. 1621 (a) (10), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.230 *Remuneration for delivery and distribution of newspapers, shopping news, and magazines*—(a) *In general.* Subparagraph (A) of section 1621 (a) (10) excepts from wages the remuneration for certain services performed by an employee under the age of 18 in the delivery or distribution of newspapers or shopping news. This exception is dealt with in paragraph (b) of this section. Subparagraph (B) of section 1621 (a) (10) excepts from wages the remuneration for certain services in the sale of newspapers or magazines without regard to the age of the individual performing the services. Such exception is dealt with in paragraph (c) of this section.

(b) *Services of individuals under age 18.* Remuneration for services performed by an employee under the age of 18 in the delivery or distribution of newspapers, or shopping news, not including delivery or distribution (as, for example, by a regional distributor) to any point for subsequent delivery or distribution, is excepted from wages. Thus, remuneration for services performed by an employee under the age of 18 in making house-to-house delivery or sale of newspapers or shopping news, including handbills and other similar types of advertising material, is excepted from wages. The remuneration is excepted irrespective of the form or method thereof. The remuneration for incidental services by the employee who makes the house-to-house delivery, such as services in assembling newspapers, are considered to be within the exception. The exception continues only during the time that the employee is under the age of 18.

(c) *Services of individuals of any age.* Remuneration for services performed by an employee in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his remuneration being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, is excepted from wages. The remuneration is excepted whether or not the employee is guaranteed a minimum amount of remuneration, or is entitled to be credited with the unsold newspapers or magazines turned back. Moreover, the remuneration is excepted without regard to the age of the employee. Remuneration for services performed other than at the time of sale to the ultimate consumer is not within the exception. Thus, remuneration for services of a regional distributor which are antecedent to but not immediately part of the sale to the ultimate consumer are not within the exception. However, remuneration for incidental services by the employee who makes the sale to the ultimate consumer, such as services in assembling newspapers or in taking newspapers or magazines to the place of sale, is considered to be within the exception.

§ 406.231 *Statutory provisions; definitions; wages; certain tax-exempt trusts and annuity plans.*

SEC. 1621. DEFINITIONS.

As used in this subchapter—

(a) *Wages.* The term "wages" means all remuneration * * * for services performed by an employee for his employer * * *· except that such term shall not include remuneration paid—

* * * * *

(12) To, or on behalf of, an employee or his beneficiary (A) from or to a trust exempt from tax under section 165 (a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (B) under or to an annuity plan which, at the time of such payment, meets the requirements of section 165 (a) (3), (4), (5), and (6).

[Sec. 1621 (a) (12), as added by sec. 209 (c), Social Security Act Amendments 1950.]

* * * * *

§ 406.232 *Payments from or to certain tax-exempt trusts or under or to certain annuity plans.* Any payment from or to a trust or annuity plan is excepted from wages if:

(a) The payment is made by an employer, on behalf of an employee or his beneficiary, into a trust or annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) or the annuity plan meets the requirements of section 165 (a) (3) (4) (5) and (6) or

(b) The payment is made to, or on behalf of, an employee or his beneficiary from a trust or under an annuity plan, if at the time of such payment the trust is exempt from tax under section 165 (a) or the annuity plan meets the requirements of section 165 (a) (3) (4) (5) and (6).

A payment made to an employee of a trust exempt from tax under section 165 (a) for services rendered as an employee of such trust and not as a beneficiary of the trust is not within this exception.

SUBPART C—DETERMINATION OF TAX

§ 406.300 *Statutory provisions; determination of tax.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

(a) *Requirement of withholding.* Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to 18 per centum of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b) (1) * * *

[Sec. 1622 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a), Revenue Act 1945; sec. 501, Revenue Act 1948; sec. 141, Revenue Act 1950; sec. 201, Revenue Act 1951.]

(b) (1) The table referred to in subsection (a) is as follows:

PERCENTAGE METHOD WITHHOLDING TABLE

Payroll period	*Amount of one withholding exemption*
Weekly	$13.00
Biweekly	26.00
Semimonthly	23.00
Monthly	56.00
Quarterly	167.00
Semiannual	333.00
Annual	667.00
Daily or miscellaneous (per day of such period)	1.80

(2) If wages are paid with respect to a period which is not a payroll period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commissioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer, in computing the tax required to be deducted and withheld, to use the excess of the aggregate of the wages paid to the employee during the calendar week over the withholding exemption allowed by this subsection for a weekly payroll period.

(5) In determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

[Sec. 1622 (b), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a), Revenue Act 1945; sec. 501, Revenue Act 1948.]

(c) *Wage bracket withholding*—(1) (A) * * *

(B) *Wages paid after December 31, 1953.* At the election of the employer with respect to any employee, the employer shall deduct and withhold upon the wages paid to such employee after December 31, 1953, a tax determined in accordance with the following tables, which shall be in lieu of the tax required to be deducted and withheld under subsection (a)

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS WEEKLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$13	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$13	$14	$2.40	.10	0	0	0	0	0	0	0	0	0
$14	$15	2.60	.30	0	0	0	0	0	0	0	0	0
$15	$16	2.80	.50	0	0	0	0	0	0	0	0	0
$16	$17	3.00	.70	0	0	0	0	0	0	0	0	0
$17	$18	3.20	.80	0	0	0	0	0	0	0	0	0
$18	$19	3.30	1.00	0	0	0	0	0	0	0	0	0
$19	$20	3.50	1.20	0	0	0	0	0	0	0	0	0
$20	$21	3.70	1.40	0	0	0	0	0	0	0	0	0
$21	$22	3.90	1.60	0	0	0	0	0	0	0	0	0
$22	$23	4.10	1.70	0	0	0	0	0	0	0	0	0
$23	$24	4.20	1.90	0	0	0	0	0	0	0	0	0
$24	$25	4.40	2.10	0	0	0	0	0	0	0	0	0
$25	$26	4.60	2.30	0	0	0	0	0	0	0	0	0
$26	$27	4.80	2.50	.20	0	0	0	0	0	0	0	0
$27	$28	5.00	2.60	.30	0	0	0	0	0	0	0	0
$28	$29	5.10	2.80	.50	0	0	0	0	0	0	0	0
$29	$30	5.30	3.00	.70	0	0	0	0	0	0	0	0
$30	$31	5.50	3.20	.90	0	0	0	0	0	0	0	0
$31	$32	5.70	3.40	1.10	0	0	0	0	0	0	0	0
$32	$33	5.90	3.50	1.20	0	0	0	0	0	0	0	0
$33	$34	6.00	3.70	1.40	0	0	0	0	0	0	0	0
$34	$35	6.20	3.90	1.60	0	0	0	0	0	0	0	0
$35	$36	6.40	4.10	1.80	0	0	0	0	0	0	0	0
$36	$37	6.60	4.30	2.00	0	0	0	0	0	0	0	0
$37	$38	6.80	4.40	2.10	0	0	0	0	0	0	0	0
$38	$39	6.90	4.60	2.30	0	0	0	0	0	0	0	0
$39	$40	7.10	4.80	2.50	.20	0	0	0	0	0	0	0
$40	$41	7.30	5.00	2.70	.40	0	0	0	0	0	0	0
$41	$42	7.50	5.20	2.90	.50	0	0	0	0	0	0	0
$42	$43	7.70	5.30	3.00	.70	0	0	0	0	0	0	0
$43	$44	7.80	5.50	3.20	.90	0	0	0	0	0	0	0
$44	$45	8.00	5.70	3.40	1.10	0	0	0	0	0	0	0
$45	$46	8.20	5.90	3.60	1.30	0	0	0	0	0	0	0
$46	$47	8.40	6.10	3.80	1.40	0	0	0	0	0	0	0
$47	$48	8.60	6.20	3.90	1.60	0	0	0	0	0	0	0
$48	$49	8.70	6.40	4.10	1.80	0	0	0	0	0	0	0
$49	$50	8.90	6.60	4.30	2.00	0	0	0	0	0	0	0
$50	$51	9.10	6.80	4.50	2.20	0	0	0	0	0	0	0
$51	$52	9.30	7.00	4.70	2.30	0	0	0	0	0	0	0
$52	$53	9.50	7.10	4.80	2.50	.20	0	0	0	0	0	0
$53	$54	9.60	7.30	5.00	2.70	.40	0	0	0	0	0	0
$54	$55	9.80	7.50	5.20	2.90	.60	0	0	0	0	0	0
$55	$56	10.00	7.70	5.40	3.10	.80	0	0	0	0	0	0
$56	$57	10.20	7.90	5.60	3.20	.90	0	0	0	0	0	0
$57	$58	10.40	8.00	5.70	3.40	1.10	0	0	0	0	0	0
$58	$59	10.50	8.20	5.90	3.60	1.30	0	0	0	0	0	0
$59	$60	10.70	8.40	6.10	3.80	1.50	0	0	0	0	0	0
$60	$62	11.00	8.70	6.40	4.10	1.70	0	0	0	0	0	0
$62	$64	11.30	9.00	6.70	4.40	2.10	0	0	0	0	0	0
$64	$66	11.70	9.40	7.10	4.80	2.50	.20	0	0	0	0	0
$66	$68	12.10	9.80	7.40	5.10	2.80	.50	0	0	0	0	0
$68	$70	12.40	10.10	7.80	5.50	3.20	.90	0	0	0	0	0
$70	$72	12.80	10.50	8.20	5.90	3.50	1.20	0	0	0	0	0
$72	$74	13.10	10.80	8.50	6.20	3.90	1.60	0	0	0	0	0
$74	$76	13.50	11.20	8.90	6.60	4.30	2.00	0	0	0	0	0
$76	$78	13.90	11.60	9.20	6.90	4.60	2.30	0	0	0	0	0
$78	$80	14.20	11.90	9.60	7.30	5.00	2.70	.40	0	0	0	0
$80	$82	14.60	12.30	10.00	7.70	5.30	3.00	.70	0	0	0	0
$82	$84	14.90	12.60	10.30	8.00	5.70	3.40	1.10	0	0	0	0
$84	$86	15.30	13.00	10.70	8.40	6.10	3.80	1.50	0	0	0	0
$86	$88	15.70	13.40	11.00	8.70	6.40	4.10	1.80	0	0	0	0
$88	$90	16.00	13.70	11.40	9.10	6.80	4.50	2.20	0	0	0	0
$90	$92	16.40	14.10	11.80	9.50	7.10	4.80	2.50	.20	0	0	0
$92	$94	16.70	14.40	12.10	9.80	7.50	5.20	2.90	.60	0	0	0
$94	$96	17.10	14.80	12.50	10.20	7.90	5.60	3.30	.90	0	0	0
$96	$98	17.50	15.20	12.80	10.50	8.20	5.90	3.60	1.30	0	0	0
$98	$100	17.80	15.50	13.20	10.90	8.60	6.30	4.00	1.70	0	0	0
$100	$105	18.50	16.10	13.80	11.50	9.20	6.90	4.60	2.30	0	0	0
$105	$110	19.40	17.00	14.70	12.40	10.10	7.80	5.50	3.20	.90	0	0
$110	$115	20.30	17.90	15.60	13.30	11.00	8.70	6.40	4.10	1.80	0	0
$115	$120	21.20	18.80	16.50	14.20	11.90	9.60	7.30	5.00	2.70	.40	0
$120	$125	22.10	19.70	17.40	15.10	12.80	10.50	8.20	5.90	3.60	1.30	0
$125	$130	23.00	20.60	18.30	16.00	13.70	11.40	9.10	6.80	4.50	2.20	0
$130	$135	23.90	21.50	19.20	16.90	14.60	12.30	10.00	7.70	5.40	3.10	.80
$135	$140	24.80	22.40	20.10	17.80	15.50	13.20	10.90	8.60	6.30	4.00	1.70
$140	$145	25.70	23.30	21.00	18.70	16.40	14.10	11.80	9.50	7.20	4.90	2.60
$145	$150	26.60	24.20	21.90	19.60	17.30	15.00	12.70	10.40	8.10	5.80	3.50
$150	$160	27.90	25.60	23.30	21.00	18.70	16.40	14.10	11.70	9.40	7.10	4.80
$160	$170	29.70	27.40	25.10	22.80	20.50	18.20	15.90	13.50	11.20	8.90	6.60
$170	$180	31.50	29.20	26.90	24.60	22.30	20.00	17.70	15.30	13.00	10.70	8.40
$180	$190	33.30	31.00	28.70	26.40	24.10	21.80	19.50	17.10	14.80	12.50	10.20
$190	$200	35.10	32.80	30.50	28.20	25.90	23.60	21.30	18.90	16.60	14.30	12.00
		18 percent of the excess over $200 plus—										
$200 and over		36.00	33.70	31.40	29.10	26.80	24.50	22.20	19.80	17.50	15.20	12.90

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS BIWEEKLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$26	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$26	$28	$4.90	.20	0	0	0	0	0	0	0	0	0
$28	$30	5.20	.60	0	0	0	0	0	0	0	0	0
$30	$32	5.60	1.00	0	0	0	0	0	0	0	0	0
$32	$34	5.90	1.30	0	0	0	0	0	0	0	0	0
$34	$36	6.30	1.70	0	0	0	0	0	0	0	0	0
$36	$38	6.70	2.00	0	0	0	0	0	0	0	0	0
$38	$40	7.00	2.40	0	0	0	0	0	0	0	0	0
$40	$42	7.40	2.80	0	0	0	0	0	0	0	0	0
$42	$44	7.70	3.10	0	0	0	0	0	0	0	0	0
$44	$46	8.10	3.50	0	0	0	0	0	0	0	0	0
$46	$48	8.50	3.80	0	0	0	0	0	0	0	0	0
$48	$50	8.80	4.20	0	0	0	0	0	0	0	0	0
$50	$52	9.20	4.60	0	0	0	0	0	0	0	0	0
$52	$54	9.50	4.90	.30	0	0	0	0	0	0	0	0
$54	$56	9.90	5.30	.70	0	0	0	0	0	0	0	0
$56	$58	10.30	5.60	1.00	0	0	0	0	0	0	0	0
$58	$60	10.60	6.00	1.40	0	0	0	0	0	0	0	0
$60	$62	11.00	6.40	1.70	0	0	0	0	0	0	0	0
$62	$64	11.30	6.70	2.10	0	0	0	0	0	0	0	0
$64	$66	11.70	7.10	2.50	0	0	0	0	0	0	0	0
$66	$68	12.10	7.40	2.80	0	0	0	0	0	0	0	0
$68	$70	12.40	7.80	3.20	0	0	0	0	0	0	0	0
$70	$72	12.80	8.20	3.50	0	0	0	0	0	0	0	0
$72	$74	13.10	8.50	3.90	0	0	0	0	0	0	0	0
$74	$76	13.50	8.90	4.30	0	0	0	0	0	0	0	0
$76	$78	13.90	9.20	4.60	0	0	0	0	0	0	0	0
$78	$80	14.20	9.60	5.00	.40	0	0	0	0	0	0	0
$80	$82	14.60	10.00	5.30	.70	0	0	0	0	0	0	0
$82	$84	14.90	10.30	5.70	1.10	0	0	0	0	0	0	0
$84	$86	15.30	10.70	6.10	1.50	0	0	0	0	0	0	0
$86	$88	15.70	11.00	6.40	1.80	0	0	0	0	0	0	0
$88	$90	16.00	11.40	6.80	2.20	0	0	0	0	0	0	0
$90	$92	16.40	11.80	7.10	2.50	0	0	0	0	0	0	0
$92	$94	16.70	12.10	7.50	2.90	0	0	0	0	0	0	0
$94	$96	17.10	12.50	7.90	3.30	0	0	0	0	0	0	0
$96	$98	17.50	12.80	8.20	3.60	0	0	0	0	0	0	0
$98	$100	17.80	13.20	8.60	4.00	0	0	0	0	0	0	0
$100	$102	18.20	13.60	8.90	4.30	0	0	0	0	0	0	0
$102	$104	18.50	13.90	9.30	4.70	.10	0	0	0	0	0	0
$104	$106	18.90	14.30	9.70	5.10	.40	0	0	0	0	0	0
$106	$108	19.30	14.60	10.00	5.40	.80	0	0	0	0	0	0
$108	$110	19.60	15.00	10.40	5.80	1.20	0	0	0	0	0	0
$110	$112	20.00	15.40	10.70	6.10	1.50	0	0	0	0	0	0
$112	$114	20.30	15.70	11.10	6.50	1.90	0	0	0	0	0	0
$114	$116	20.70	16.10	11.50	6.90	2.20	0	0	0	0	0	0
$116	$118	21.10	16.40	11.80	7.20	2.60	0	0	0	0	0	0
$118	$120	21.40	16.80	12.20	7.60	3.00	0	0	0	0	0	0
$120	$124	22.00	17.30	12.70	8.10	3.50	0	0	0	0	0	0
$124	$128	22.70	18.10	13.40	8.80	4.20	0	0	0	0	0	0
$128	$132	23.40	18.80	14.20	9.60	4.90	.30	0	0	0	0	0
$132	$136	24.10	19.50	14.90	10.30	5.70	1.00	0	0	0	0	0
$136	$140	24.80	20.20	15.60	11.00	6.40	1.80	0	0	0	0	0
$140	$144	25.60	20.90	16.30	11.70	7.10	2.50	0	0	0	0	0
$144	$148	26.30	21.70	17.00	12.40	7.80	3.20	0	0	0	0	0
$148	$152	27.00	22.40	17.80	13.20	8.50	3.90	0	0	0	0	0
$152	$156	27.70	23.10	18.50	13.90	9.30	4.60	0	0	0	0	0
$156	$160	28.40	23.80	19.20	14.60	10.00	5.40	.70	0	0	0	0
$160	$164	29.20	24.50	19.90	15.30	10.70	6.10	1.50	0	0	0	0
$164	$168	29.90	25.30	20.60	16.00	11.40	6.80	2.20	0	0	0	0
$168	$172	30.60	26.00	21.40	16.80	12.10	7.50	2.90	0	0	0	0
$172	$176	31.30	26.70	22.10	17.50	12.90	8.20	3.60	0	0	0	0
$176	$180	32.00	27.40	22.80	18.20	13.60	9.00	4.30	0	0	0	0
$180	$184	32.80	28.10	23.50	18.90	14.30	9.70	5.10	.50	0	0	0
$184	$188	33.50	28.90	24.20	19.60	15.00	10.40	5.80	1.20	0	0	0
$188	$192	34.20	29.60	25.00	20.40	15.70	11.10	6.50	1.90	0	0	0
$192	$196	34.90	30.30	25.70	21.10	16.50	11.80	7.20	2.60	0	0	0
$196	$200	35.60	31.00	26.40	21.80	17.20	12.60	7.90	3.30	0	0	0
$200	$210	36.90	32.30	27.70	23.10	18.40	13.80	9.20	4.60	0	0	0
$210	$220	38.70	34.10	29.50	24.90	20.20	15.60	11.00	6.40	1.80	0	0
$220	$230	40.50	35.90	31.30	26.70	22.00	17.40	12.80	8.20	3.60	0	0
$230	$240	42.30	37.70	33.10	28.50	23.80	19.20	14.60	10.00	5.40	.80	0
$240	$250	44.10	39.50	34.90	30.30	25.60	21.00	16.40	11.80	7.20	2.60	0
$250	$260	45.90	41.30	36.70	32.10	27.40	22.80	18.20	13.60	9.00	4.40	0
$260	$270	47.70	43.10	38.50	33.90	29.20	24.60	20.00	15.40	10.80	6.20	1.50
$270	$280	49.50	44.90	40.30	35.70	31.00	26.40	21.80	17.20	12.60	8.00	3.20
$280	$290	51.30	46.70	42.10	37.50	32.80	28.20	23.60	19.00	14.40	9.80	5.10
$290	$300	53.10	48.50	43.90	39.30	34.60	30.00	25.40	20.80	16.20	11.60	6.90
$300	$320	55.80	51.20	46.60	42.00	37.30	32.70	28.10	23.50	18.90	14.30	9.60
$320	$340	59.40	54.80	50.20	45.60	40.90	36.30	31.70	27.10	22.50	17.90	13.20
$340	$360	63.00	58.40	53.80	49.20	44.50	39.90	35.30	30.70	26.10	21.50	16.80
$360	$380	66.60	62.00	57.40	52.80	48.10	43.50	38.90	34.30	29.70	25.10	20.40
$380	$400	70.20	65.60	61.00	56.40	51.70	47.10	42.50	37.90	33.30	28.70	24.00
		18 percent of the excess over $400 plus—										
$400 and over		72.00	67.40	62.80	58.20	53.50	48.90	44.30	39.70	35.10	30.50	25.80

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS SEMIMONTHLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$28	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$28	$30	$5.20	.20	0	0	0	0	0	0	0	0	0
$30	$32	5.60	.60	0	0	0	0	0	0	0	0	0
$32	$34	5.90	.90	0	0	0	0	0	0	0	0	0
$34	$36	6.30	1.30	0	0	0	0	0	0	0	0	0
$36	$38	6.70	1.70	0	0	0	0	0	0	0	0	0
$38	$40	7.00	2.00	0	0	0	0	0	0	0	0	0
$40	$42	7.40	2.40	0	0	0	0	0	0	0	0	0
$42	$44	7.70	2.70	0	0	0	0	0	0	0	0	0
$44	$46	8.10	3.10	0	0	0	0	0	0	0	0	0
$46	$48	8.50	3.50	0	0	0	0	0	0	0	0	0
$48	$50	8.80	3.80	0	0	0	0	0	0	0	0	0
$50	$52	9.20	4.20	0	0	0	0	0	0	0	0	0
$52	$54	9.50	4.50	0	0	0	0	0	0	0	0	0
$54	$56	9.90	4.90	0	0	0	0	0	0	0	0	0
$56	$58	10.30	5.30	.30	0	0	0	0	0	0	0	0
$58	$60	10.60	5.60	.60	0	0	0	0	0	0	0	0
$60	$62	11.00	6.00	1.00	0	0	0	0	0	0	0	0
$62	$64	11.30	6.30	1.30	0	0	0	0	0	0	0	0
$64	$66	11.70	6.70	1.70	0	0	0	0	0	0	0	0
$66	$68	12.10	7.10	2.10	0	0	0	0	0	0	0	0
$68	$70	12.40	7.40	2.40	0	0	0	0	0	0	0	0
$70	$72	12.80	7.80	2.80	0	0	0	0	0	0	0	0
$72	$74	13.10	8.10	3.10	0	0	0	0	0	0	0	0
$74	$76	13.50	8.50	3.50	0	0	0	0	0	0	0	0
$76	$78	13.90	8.90	3.90	0	0	0	0	0	0	0	0
$78	$80	14.20	9.20	4.20	0	0	0	0	0	0	0	0
$80	$82	14.60	9.60	4.60	0	0	0	0	0	0	0	0
$82	$84	14.90	9.90	4.90	0	0	0	0	0	0	0	0
$84	$86	15.30	10.30	5.30	.30	0	0	0	0	0	0	0
$86	$88	15.70	10.70	5.70	.70	0	0	0	0	0	0	0
$88	$90	16.00	11.00	6.00	1.00	0	0	0	0	0	0	0
$90	$92	16.40	11.40	6.40	1.40	0	0	0	0	0	0	0
$92	$94	16.70	11.70	6.70	1.70	0	0	0	0	0	0	0
$94	$96	17.10	12.10	7.10	2.10	0	0	0	0	0	0	0
$96	$98	17.50	12.50	7.50	2.50	0	0	0	0	0	0	0
$98	$100	17.80	12.80	7.80	2.80	0	0	0	0	0	0	0
$100	$102	18.20	13.20	8.20	3.20	0	0	0	0	0	0	0
$102	$104	18.50	13.50	8.50	3.50	0	0	0	0	0	0	0
$104	$106	18.90	13.90	8.90	3.90	0	0	0	0	0	0	0
$106	$108	19.30	14.30	9.30	4.30	0	0	0	0	0	0	0
$108	$110	19.60	14.60	9.60	4.60	0	0	0	0	0	0	0
$110	$112	20.00	15.00	10.00	5.00	0	0	0	0	0	0	0
$112	$114	20.30	15.30	10.30	5.30	.30	0	0	0	0	0	0
$114	$116	20.70	15.70	10.70	5.70	.70	0	0	0	0	0	0
$116	$118	21.10	16.10	11.10	6.10	1.10	0	0	0	0	0	0
$118	$120	21.40	16.40	11.40	6.40	1.40	0	0	0	0	0	0
$120	$124	22.00	17.00	12.00	7.00	2.00	0	0	0	0	0	0
$124	$128	22.70	17.70	12.70	7.70	2.70	0	0	0	0	0	0
$128	$132	23.40	18.40	13.40	8.40	3.40	0	0	0	0	0	0
$132	$136	24.10	19.10	14.10	9.10	4.10	0	0	0	0	0	0
$136	$140	24.80	19.80	14.80	9.80	4.80	0	0	0	0	0	0
$140	$144	25.60	20.60	15.60	10.60	5.60	.60	0	0	0	0	0
$144	$148	26.30	21.30	16.30	11.30	6.30	1.30	0	0	0	0	0
$148	$152	27.00	22.00	17.00	12.00	7.00	2.00	0	0	0	0	0
$152	$156	27.70	22.70	17.70	12.70	7.70	2.70	0	0	0	0	0
$156	$160	28.40	23.40	18.40	13.40	8.40	3.40	0	0	0	0	0
$160	$164	29.20	24.20	19.20	14.20	9.20	4.20	0	0	0	0	0
$164	$168	29.90	24.90	19.90	14.90	9.90	4.90	0	0	0	0	0
$168	$172	30.60	25.60	20.60	15.60	10.60	5.60	.60	0	0	0	0
$172	$176	31.30	26.30	21.30	16.30	11.30	6.30	1.30	0	0	0	0
$176	$180	32.00	27.00	22.00	17.00	12.00	7.00	2.00	0	0	0	0
$180	$184	32.80	27.80	22.80	17.80	12.80	7.80	2.80	0	0	0	0
$184	$188	33.50	28.50	23.50	18.50	13.50	8.50	3.50	0	0	0	0
$188	$192	34.20	29.20	24.20	19.20	14.20	9.20	4.20	0	0	0	0
$192	$196	34.90	29.90	24.90	19.90	14.90	9.90	4.90	0	0	0	0
$196	$200	35.60	30.60	25.60	20.60	15.60	10.60	5.60	.60	0	0	0
$200	$210	36.90	31.90	26.90	21.90	16.90	11.90	6.90	1.90	0	0	0
$210	$220	38.70	33.70	28.70	23.70	18.70	13.70	8.70	3.70	0	0	0
$220	$230	40.50	35.50	30.50	25.50	20.50	15.50	10.50	5.50	.50	0	0
$230	$240	42.30	37.30	32.30	27.30	22.30	17.30	12.30	7.30	2.30	0	0
$240	$250	44.10	39.10	34.10	29.10	24.10	19.10	14.10	9.10	4.10	0	0
$250	$260	45.90	40.90	35.90	30.90	25.90	20.90	15.90	10.90	5.90	.90	0
$260	$270	47.70	42.70	37.70	32.70	27.70	22.70	17.70	12.70	7.70	2.70	0
$270	$280	49.50	44.50	39.50	34.50	29.50	24.50	19.50	14.50	9.50	4.50	0
$280	$290	51.30	46.30	41.30	36.30	31.30	26.30	21.30	16.30	11.30	6.30	1.30
$290	$300	53.10	48.10	43.10	38.10	33.10	28.10	23.10	18.10	13.10	8.10	3.10
$300	$320	55.80	50.80	45.80	40.80	35.80	30.80	25.80	20.80	15.80	10.80	5.80
$320	$340	59.40	54.40	49.40	44.40	39.40	34.40	29.40	24.40	19.40	14.40	9.40
$340	$360	63.00	58.00	53.00	48.00	43.00	38.00	33.00	28.00	23.00	18.00	13.00
$360	$380	66.60	61.60	56.60	51.60	46.60	41.60	36.60	31.60	26.60	21.60	16.60
$380	$400	70.20	65.20	60.20	55.20	50.20	45.20	40.20	35.20	30.20	25.20	20.20
$400	$420	73.80	68.80	63.80	58.80	53.80	48.80	43.80	38.80	33.80	28.80	23.80
$420	$440	77.40	72.40	67.40	62.40	57.40	52.40	47.40	42.40	37.40	32.40	27.40
$440	$460	81.00	76.00	71.00	66.00	61.00	56.00	51.00	46.00	41.00	36.00	31.00
$460	$480	84.60	79.60	74.60	69.60	64.60	59.60	54.60	49.60	44.60	39.60	34.60
$480	$500	88.20	83.20	78.20	73.20	68.20	63.20	58.20	53.20	48.20	43.20	38.20
		18 percent of the excess over $500 plus—										
$500 and over		90.00	85.00	80.00	75.00	70.00	65.00	60.00	55.00	50.00	45.00	40.00

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS MONTHLY

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
		The amount of tax to be withheld shall be—										
$0	$56	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$56	$60	$10.40	.40	0	0	0	0	0	0	0	0	0
$60	$64	11.20	1.20	0	0	0	0	0	0	0	0	0
$64	$68	11.90	1.90	0	0	0	0	0	0	0	0	0
$68	$72	12.60	2.60	0	0	0	0	0	0	0	0	0
$72	$76	13.30	3.30	0	0	0	0	0	0	0	0	0
$76	$80	14.00	4.00	0	0	0	0	0	0	0	0	0
$80	$84	14.80	4.80	0	0	0	0	0	0	0	0	0
$84	$88	15.50	5.50	0	0	0	0	0	0	0	0	0
$88	$92	16.20	6.20	0	0	0	0	0	0	0	0	0
$92	$96	16.90	6.90	0	0	0	0	0	0	0	0	0
$96	$100	17.60	7.60	0	0	0	0	0	0	0	0	0
$100	$104	18.40	8.40	0	0	0	0	0	0	0	0	0
$104	$108	19.10	9.10	0	0	0	0	0	0	0	0	0
$108	$112	19.80	9.80	0	0	0	0	0	0	0	0	0
$112	$116	20.50	10.50	.50	0	0	0	0	0	0	0	0
$116	$120	21.20	11.20	1.20	0	0	0	0	0	0	0	0
$120	$124	22.00	12.00	2.00	0	0	0	0	0	0	0	0
$124	$128	22.70	12.70	2.70	0	0	0	0	0	0	0	0
$128	$132	23.40	13.40	3.40	0	0	0	0	0	0	0	0
$132	$136	24.10	14.10	4.10	0	0	0	0	0	0	0	0
$136	$140	24.80	14.80	4.80	0	0	0	0	0	0	0	0
$140	$144	25.60	15.60	5.60	0	0	0	0	0	0	0	0
$144	$148	26.30	16.30	6.30	0	0	0	0	0	0	0	0
$148	$152	27.00	17.00	7.00	0	0	0	0	0	0	0	0
$152	$156	27.70	17.70	7.70	0	0	0	0	0	0	0	0
$156	$160	28.40	18.40	8.40	0	0	0	0	0	0	0	0
$160	$164	29.20	19.20	9.20	0	0	0	0	0	0	0	0
$164	$168	29.90	19.90	9.90	0	0	0	0	0	0	0	0
$168	$172	30.60	20.60	10.60	.60	0	0	0	0	0	0	0
$172	$176	31.30	21.30	11.30	1.30	0	0	0	0	0	0	0
$176	$180	32.00	22.00	12.00	2.00	0	0	0	0	0	0	0
$180	$184	32.80	22.80	12.80	2.80	0	0	0	0	0	0	0
$184	$188	33.50	23.50	13.50	3.50	0	0	0	0	0	0	0
$188	$192	34.20	24.20	14.20	4.20	0	0	0	0	0	0	0
$192	$196	34.90	24.90	14.90	4.90	0	0	0	0	0	0	0
$196	$200	35.60	25.60	15.60	5.60	0	0	0	0	0	0	0
$200	$204	36.40	26.40	16.40	6.40	0	0	0	0	0	0	0
$204	$208	37.10	27.10	17.10	7.10	0	0	0	0	0	0	0
$208	$212	37.80	27.80	17.80	7.80	0	0	0	0	0	0	0
$212	$216	38.50	28.50	18.50	8.50	0	0	0	0	0	0	0
$216	$220	39.20	29.20	19.20	9.20	0	0	0	0	0	0	0
$220	$224	40.00	30.00	20.00	10.00	0	0	0	0	0	0	0
$224	$228	40.70	30.70	20.70	10.70	.70	0	0	0	0	0	0
$228	$232	41.40	31.40	21.40	11.40	1.40	0	0	0	0	0	0
$232	$236	42.10	32.10	22.10	12.10	2.10	0	0	0	0	0	0
$236	$240	42.80	32.80	22.80	12.80	2.80	0	0	0	0	0	0
$240	$248	43.90	33.90	23.90	13.90	3.90	0	0	0	0	0	0
$248	$256	45.40	35.40	25.40	15.40	5.40	0	0	0	0	0	0
$256	$264	46.80	36.80	26.80	16.80	6.80	0	0	0	0	0	0
$264	$272	48.20	38.20	28.20	18.20	8.20	0	0	0	0	0	0
$272	$280	49.70	39.70	29.70	19.70	9.70	0	0	0	0	0	0
$280	$288	51.10	41.10	31.10	21.10	11.10	1.10	0	0	0	0	0
$288	$296	52.60	42.60	32.60	22.60	12.60	2.60	0	0	0	0	0
$296	$304	54.00	44.00	34.00	24.00	14.00	4.00	0	0	0	0	0
$304	$312	55.40	45.40	35.40	25.40	15.40	5.40	0	0	0	0	0
$312	$320	56.90	46.90	36.90	26.90	16.90	6.90	0	0	0	0	0
$320	$328	58.30	48.30	38.30	28.30	18.30	8.30	0	0	0	0	0
$328	$336	59.80	49.80	39.80	29.80	19.80	9.80	0	0	0	0	0
$336	$344	61.20	51.20	41.20	31.20	21.20	11.20	1.20	0	0	0	0
$344	$352	62.60	52.60	42.60	32.60	22.60	12.60	2.60	0	0	0	0
$352	$360	64.10	54.10	44.10	34.10	24.10	14.10	4.10	0	0	0	0
$360	$368	65.50	55.50	45.50	35.50	25.50	15.50	5.50	0	0	0	0
$368	$376	67.00	57.00	47.00	37.00	27.00	17.00	7.00	0	0	0	0
$376	$384	68.40	58.40	48.40	38.40	28.40	18.40	8.40	0	0	0	0
$384	$392	69.80	59.80	49.80	39.80	29.80	19.80	9.80	0	0	0	0
$392	$400	71.30	61.30	51.30	41.30	31.30	21.30	11.30	1.30	0	0	0
$400	$420	73.80	63.80	53.80	43.80	33.80	23.80	13.80	3.80	0	0	0
$420	$440	77.40	67.40	57.40	47.40	37.40	27.40	17.40	7.40	0	0	0
$440	$460	81.00	71.00	61.00	51.00	41.00	31.00	21.00	11.00	1.00	0	0
$460	$480	84.60	74.60	64.60	54.60	44.60	34.60	24.60	14.60	4.60	0	0
$480	$500	88.20	78.20	68.20	58.20	48.20	38.20	28.20	18.20	8.20	0	0
$500	$520	91.80	81.80	71.80	61.80	51.80	41.80	31.80	21.80	11.80	1.80	0
$520	$540	95.40	85.40	75.40	65.40	55.40	45.40	35.40	25.40	15.40	5.40	0
$540	$560	99.00	89.00	79.00	69.00	59.00	49.00	39.00	29.00	19.00	9.00	0
$560	$580	102.60	92.60	82.60	72.60	62.60	52.60	42.60	32.60	22.60	12.60	2.60
$580	$600	106.20	96.20	86.20	76.20	66.20	56.20	46.20	36.20	26.20	16.20	6.20
$600	$640	111.60	101.60	91.60	81.60	71.60	61.60	51.60	41.60	31.60	21.60	11.60
$640	$680	118.80	108.80	98.80	88.80	78.80	68.80	58.80	48.80	38.80	28.80	18.80
$680	$720	126.00	116.00	106.00	96.00	86.00	76.00	66.00	56.00	46.00	36.00	26.00
$720	$760	133.20	123.20	113.20	103.20	93.20	83.20	73.20	63.20	53.20	43.20	33.20
$760	$800	140.40	130.40	120.40	110.40	100.40	90.40	80.40	70.40	60.40	50.40	40.40
$800	$840	147.60	137.60	127.60	117.60	107.60	97.60	87.60	77.60	67.60	57.60	47.60
$840	$880	154.80	144.80	134.80	124.80	114.80	104.80	94.80	84.80	74.80	64.80	54.80
$880	$920	162.00	152.00	142.00	132.00	122.00	112.00	102.00	92.00	82.00	72.00	62.00
$920	$960	169.20	159.20	149.20	139.20	129.20	119.20	109.20	99.20	89.20	79.20	69.20
$960	$1,000	176.40	166.40	156.40	146.40	136.40	126.40	116.40	106.40	96.40	86.40	76.40
		18 percent of the excess over $1,000 plus—										
$1,000 and over		180.00	170.00	160.00	150.00	140.00	130.00	120.00	110.00	100.00	90.00	80.00

IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS A DAILY PAYROLL PERIOD OR A MISCELLANEOUS PAYROLL PERIOD

And the wages divided by the number of days in such period are—		And the number of withholding exemptions claimed is—										
		0	1	2	3	4	5	6	7	8	9	10 or more
At least	But less than	The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—										
$0	$2.00	18% of wages	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
$2.00	$2.25	$0.40	.05	0	0	0	0	0	0	0	0	0
$2.25	$2.50	.45	.10	0	0	0	0	0	0	0	0	0
$2.50	$2.75	.45	.15	0	0	0	0	0	0	0	0	0
$2.75	$3.00	.50	.20	0	0	0	0	0	0	0	0	0
$3.00	$3.25	.55	.25	0	0	0	0	0	0	0	0	0
$3.25	$3.50	.60	.30	0	0	0	0	0	0	0	0	0
$3.50	$3.75	.65	.30	0	0	0	0	0	0	0	0	0
$3.75	$4.00	.70	.35	.05	0	0	0	0	0	0	0	0
$4.00	$4.25	.75	.40	.10	0	0	0	0	0	0	0	0
$4.25	$4.50	.80	.45	.15	0	0	0	0	0	0	0	0
$4.50	$4.75	.85	.50	.15	0	0	0	0	0	0	0	0
$4.75	$5.00	.90	.55	.20	0	0	0	0	0	0	0	0
$5.00	$5.25	.90	.60	.25	0	0	0	0	0	0	0	0
$5.25	$5.50	.95	.65	.30	0	0	0	0	0	0	0	0
$5.50	$5.75	1.00	.70	.35	.05	0	0	0	0	0	0	0
$5.75	$6.00	1.05	.75	.40	.05	0	0	0	0	0	0	0
$6.00	$6.25	1.10	.75	.45	.10	0	0	0	0	0	0	0
$6.25	$6.50	1.15	.80	.50	.15	0	0	0	0	0	0	0
$6.50	$6.75	1.20	.85	.55	.20	0	0	0	0	0	0	0
$6.75	$7.00	1.25	.90	.60	.25	0	0	0	0	0	0	0
$7.00	$7.25	1.30	.95	.60	.30	0	0	0	0	0	0	0
$7.25	$7.50	1.35	1.00	.65	.35	0	0	0	0	0	0	0
$7.50	$7.75	1.35	1.05	.70	.40	.05	0	0	0	0	0	0
$7.75	$8.00	1.40	1.10	.75	.45	.10	0	0	0	0	0	0
$8.00	$8.25	1.45	1.15	.80	.50	.15	0	0	0	0	0	0
$8.25	$8.50	1.50	1.20	.85	.50	.20	0	0	0	0	0	0
$8.50	$8.75	1.55	1.20	.90	.55	.25	0	0	0	0	0	0
$8.75	$9.00	1.60	1.25	.95	.60	.30	0	0	0	0	0	0
$9.00	$9.25	1.65	1.30	1.00	.65	.35	0	0	0	0	0	0
$9.25	$9.50	1.70	1.35	1.05	.70	.35	.05	0	0	0	0	0
$9.50	$9.75	1.75	1.40	1.05	.75	.40	.10	0	0	0	0	0
$9.75	$10.00	1.80	1.45	1.10	.80	.45	.15	0	0	0	0	0
$10.00	$10.50	1.85	1.50	1.20	.85	.55	.20	0	0	0	0	0
$10.50	$11.00	1.95	1.60	1.30	.95	.60	.30	0	0	0	0	0
$11.00	$11.50	2.05	1.70	1.35	1.05	.70	.40	.05	0	0	0	0
$11.50	$12.00	2.10	1.80	1.45	1.15	.80	.45	.15	0	0	0	0
$12.00	$12.50	2.20	1.90	1.55	1.20	.90	.55	.25	0	0	0	0
$12.50	$13.00	2.30	1.95	1.65	1.30	1.00	.65	.30	0	0	0	0
$13.00	$13.50	2.40	2.05	1.75	1.40	1.05	.75	.40	.10	0	0	0
$13.50	$14.00	2.50	2.15	1.80	1.50	1.15	.85	.50	.15	0	0	0
$14.00	$14.50	2.55	2.25	1.90	1.60	1.25	.90	.60	.25	0	0	0
$14.50	$15.00	2.65	2.35	2.00	1.65	1.35	1.00	.70	.35	0	0	0
$15.00	$15.50	2.75	2.40	2.10	1.75	1.45	1.10	.75	.45	.10	0	0
$15.50	$16.00	2.85	2.50	2.20	1.85	1.50	1.20	.85	.55	.20	0	0
$16.00	$16.50	2.95	2.60	2.25	1.95	1.60	1.30	.95	.60	.30	0	0
$16.50	$17.00	3.00	2.70	2.35	2.05	1.70	1.35	1.05	.70	.40	.05	0
$17.00	$17.50	3.10	2.80	2.45	2.10	1.80	1.45	1.15	.80	.45	.15	0
$17.50	$18.00	3.20	2.85	2.55	2.20	1.90	1.55	1.20	.90	.55	.25	0
$18.00	$18.50	3.30	2.95	2.65	2.30	1.95	1.65	1.30	1.00	.65	.35	0
$18.50	$19.00	3.40	3.05	2.70	2.40	2.05	1.75	1.40	1.05	.75	.40	.10
$19.00	$19.50	3.45	3.15	2.80	2.50	2.15	1.80	1.50	1.15	.85	.50	.20
$19.50	$20.00	3.55	3.25	2.90	2.55	2.25	1.90	1.60	1.25	.90	.60	.25
$20.00	$21.00	3.70	3.35	3.05	2.70	2.35	2.05	1.70	1.40	1.05	.75	.40
$21.00	$22.00	3.85	3.55	3.20	2.90	2.55	2.25	1.90	1.55	1.25	.90	.60
$22.00	$23.00	4.05	3.70	3.40	3.05	2.75	2.40	2.10	1.75	1.40	1.10	.75
$23.00	$24.00	4.25	3.90	3.55	3.25	2.90	2.60	2.25	1.95	1.60	1.25	.95
$24.00	$25.00	4.40	4.10	3.75	3.40	3.10	2.75	2.45	2.10	1.80	1.45	1.10
$25.00	$26.00	4.60	4.25	3.95	3.60	3.25	2.95	2.60	2.30	1.95	1.65	1.30
$26.00	$27.00	4.75	4.45	4.10	3.80	3.45	3.15	2.80	2.45	2.15	1.80	1.50
$27.00	$28.00	4.95	4.60	4.30	3.95	3.65	3.30	3.00	2.65	2.30	2.00	1.65
$28.00	$29.00	5.15	4.80	4.45	4.15	3.80	3.50	3.15	2.85	2.50	2.15	1.85
$29.00	$30.00	5.30	5.00	4.65	4.30	4.00	3.65	3.35	3.00	2.70	2.35	2.00
		18 percent of the excess over $30 plus—										
$30.00 and over		5.40	5.05	4.75	4.40	4.10	3.75	3.45	3.10	2.75	2.45	2.10

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In any case in which the period, or the time described in paragraph (3), in respect of any wages is less than one week, the Commissioner, under regulations prescribed by him with the approval of the Secretary, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(5) If the wages exceed the highest wage bracket, in determining the amount to be deducted and withheld under this subsection, the wages may, at the election of the employer, be computed to the nearest dollar.

[Sec. 1622 (c), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (c), Individual Income Tax Act 1944; sec. 104 (b), Revenue Act 1945; sec. 502, Revenue Act 1948; sec. 142, Revenue Act 1950; sec. 202, Revenue Act 1951.]

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SEC. 1621. DEFINITIONS.

As used in this subchapter—

* * * * *

(b) *Payroll period.* The term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

[Sec. 1621 (b), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.301 *Payroll period.* (a) The term "payroll period" means the period of service for which a payment of wages is ordinarily made to an employee by his employer. It is immaterial that the wages are not always paid at regular intervals. For example, if an employer ordinarily pays a particular employee for each calendar week at the end of the week, but if for some reason the employee in a given week receives a payment in the middle of the week for the portion of the week already elapsed and receives the remainder at the end of the week, the payroll period is still the calendar week; or if, instead, that employee is sent on a 3-week trip by his employer and receives at the end of the trip a single wage payment for three weeks' services, the payroll period is still the calendar week, and the wage payment shall be treated as though it were three separate weekly wage payments.

(b) For the purpose of section 1622, an employee can have but one payroll period with respect to wages paid by any one employer. Thus, if an employee is paid a regular wage for a weekly payroll period and in addition thereto is paid supplemental wages (for example, bonuses) determined with respect to a different period, the payroll period is the weekly payroll period. For computation of tax on supplemental wage payments see § 406.306.

(c) The term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

§ 406.302 *Requirement of withholding.* Section 1622 provides, at the election of the employer, alternative methods for computing the income tax collected at source on wages. Under the percentage method of withholding, the employer is required to deduct and withhold a tax computed in accordance with the provisions of section 1622 (a). Under the wage bracket method of withholding, the employer is required to deduct and withhold a tax determined in accordance with the tables provided in subsection (c) of section 1622. The employer may elect to use the percentage method in the case of one group of employees and the wage bracket method in the case of another group of employees.

§ 406.303 *Percentage method withholding*—(a) *In general.* (1) The percentage method of computing the amount of tax to be withheld makes use of the percentage method withholding table contained in section 1622 (b) (1). This table shows with respect to each of the designated payroll periods the amount allowable for one withholding exemption. The amount of the withholding exemption allowable with respect to a particular payroll period depends

upon the number of withholding exemptions claimed.

(2) The steps in computing the tax under such method are summarized as follows:

Step 1. Determine the amount of one withholding exemption for the particular payroll period from the percentage method withholding table.

Step 2. Multiply the amount of one withholding exemption by the number of exemptions claimed by the employee.

Step 3. Subtract the amount determined in step 2 from the employee's wages.

Step 4. Multiply the difference by the applicable percentage figure under section 1622 (a).

The result is the amount of tax to be withheld.

Example. During a year in which the effective rate under the percentage method of withholding is 0.18, an employee has a weekly payroll period, for which he is paid $75, and has in effect a withholding certificate claiming three exemptions. His employer, using the percentage method, computes the tax to be withheld as follows:

Step 1:	
Amount of one withholding exemption	$13.00
Step 2:	
Multiplied by number of exemptions claimed on Form W-4	X3
Total withholding exemption	39.00
Step 3:	
Total wage payment	75.00
Less amount determined in step 2	39.00
Balance subject to tax	36.00
Step 4:	
Tax to be withheld (balance multiplied by 0.18)	6.48

(b) *Established payroll periods, other than daily or miscellaneous, as shown in percentage method withholding table.* The amount of one withholding exemption, allowable with respect to each of the established payroll periods contained in the percentage method withholding table, is determined by reference to the line applicable to such payroll period and without reference to the time the employee is actually engaged in the performance of services during such payroll period.

Example (1). During 1954 employee C has a semimonthly payroll period. The number of withholding exemptions claimed by C is two. C's wages are determined at the rate of $1.20 per hour. During a certain payroll period he works only 40 hours and earns $48. Although C worked only 40 hours during the semimonthly payroll period, the applicable withholding exemption is $28, and the amount of two withholding exemptions, or $56, is allowable. Since the amount of the wages paid for the semimonthly payroll period is less than the amount allowed for two withholding exemptions for such period, the employer is not required to withhold any tax.

Example (2). During 1954 employee D has a weekly payroll period. The number of withholding exemptions claimed by D is two. D's wages are determined at the rate of $1.20 per hour. During a certain payroll period D works 30 hours and earns $36. Although D worked only 30 hours during the weekly payroll period, the applicable withholding exemption is $13, and the amount of two withholding exemptions, or $26, is allowable. The balance of $10 is subject to withholding.

(c) *Periods to which the daily or miscellaneous withholding exemption is applicable*—(1) *In general.* The percentage method withholding table shows for a daily or miscellaneous payroll period the withholding exemption allowable with respect to one day. Thus, in computing the withholding exemption allowable with respect to a particular miscellaneous payroll period, the withholding exemption shown in the table for one day of such period and the wages paid for the period must be placed on a comparable basis. This may be accomplished by either of the following methods:

(i) Adjust the percentage method withholding table to accord with the number of days in the period by multiplying the amount shown in the table as applicable per day of a miscellaneous payroll period by the number of days in such period.

(ii) Reduce the wages paid for the period to a daily basis by dividing the total wages by the number of days in the period.

(2) *Period not a payroll period.* If wages are paid for a period which is not a payroll period, the withholding exemption allowable with respect to each payment of such wages shall be the exemption allowed for a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

Example. An individual is hired by a contractor to perform services in connection with a building project. The number of withholding exemptions claimed by such individual is two. Wages were fixed at the rate of $9 per day, to be paid upon completion of the project. The project was completed during 1954 in 12 consecutive days, at the end of which period the individual is paid wages of $90 for 10 days' services performed during the period. For the purpose of computing the tax the amount of the withholding exemption allowable for the 12-day period is $43.20 (12×(2×$1.80)).

(3) *Wages paid without regard to any period.* In the case of wages paid without regard to any particular period, as, for example, commissions paid to a salesman upon completion of a sale, the withholding exemption is measured by the number of days elapsed (including Sundays and holidays) since the date of the last payment of wages to such employee by such employer during the calendar year, or the date on which employment with such employer began during the calendar year, or January 1 of such calendar year, whichever is the latest.

Example. On April 2, 1954, A was employed by the X Real Estate Co. to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. The number of withholding exemptions claimed by A is one. On May 21, 1954, A received a commission of $300. Again, on June 16, 1954, A received a commission of $400. The amount of the withholding exemption with respect to the commission paid on May 21 is $90 ($1.80×50). With respect to the commission paid on June 16, the amount of the withholding exemption is $46.80 ($1.80×26).

(d) *Period or elapsed time less than one week.* (1) It is the general rule that if wages are paid for a payroll period or other period of less than one week, the withholding exemption allowable shall be the exemption allowable for a daily payroll period, or a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period or other period for which such wages are paid. The same rule is applicable in the case of wages paid without regard to a payroll period or other period, where the elapsed time as determined in accordance with the rule prescribed in paragraph (c) of this section is less than one week.

Example (1). During 1954 an employee having a daily payroll period is paid wages of $12 per day. The number of withholding exemptions claimed by such employee is one. The amount of each such daily wage payment subject to withholding is $10.20 ($12.00—$1.80).

Example (2). During 1954 an employee works for a certain employer for four days, for which he is paid wages of $36. The number of withholding exemptions claimed by the employee is two. The amount of the withholding exemption allowable is $14.40 (4×$3.60).

(2) Under certain conditions, however, if the payroll period, other period, or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, at his election, deduct and withhold the tax computed as if the aggregate of the wages paid to the employee during the calendar week were paid for a weekly payroll period. Such election by the employer is limited to the case of an employee who works for wages only for such employer during the calendar week. Any employer electing to compute the tax upon the excess of the wages paid during the calendar week over the weekly exemption must secure a statement in writing from the employee, stating that he works for wages only for such employer, and that if he should thereafter secure additional employment for wages, he will within 10 days after the beginning of such additional employment, notify such employer of that fact. Such statement shall be signed by the employee and shall contain or be verified by a written declaration that it is made under the penalties of perjury. No form of statement is specified, but any form used must include the contents specified above. An employer electing to compute the tax in accordance with the provisions of this paragraph should withhold from each wage payment an amount sufficient to insure withholding of the correct amount of tax.

(3) If such employee secures additional employment for wages, such employer may not thereafter use the weekly exemption in computing the amount of tax to be withheld from the wages of such employee. In such event the daily or miscellaneous exemption will take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after 30 days from the date on which such employee notifies such employer that he has secured additional employment for wages.

(4) To illustrate the use of the weekly exemption in such a case: Assume the facts stated in example (2) of subparagraph (1) of this paragraph, except that the employer elects to use the weekly

withholding exemption after securing the proper statement from the employee. In such case, the amount of the withholding exemption allowable is $26 (2×$13)

(5) As used in this paragraph the term "calendar week" means a period of seven consecutive days beginning with Sunday and ending with Saturday.

(e) *Rounding off of wage payment.* In determining the amount of tax to be deducted and withheld under the percentage method, the last digit of the wage amount may, at the election of the employer, be reduced to zero, or the wage amount may be computed to the nearest dollar. Thus, if the weekly wage is $45.37, the employer may, in determining the amount of tax to be deducted and withheld, reduce the last digit to zero and determine the tax on the basis of a wage payment of $45.30 or he may determine the tax on the basis of a wage payment of $45.

§ 406.304 *Wage bracket withholding*—(a) *In general.* The employer may elect to use the wage bracket method provided in section 1622 (c) instead of the percentage method with respect to any employee. The tax computed under the wage bracket method shall be in lieu of the tax required to be deducted and withheld under section 1622 (a) Wage bracket withholding tables for weekly, biweekly, semimonthly, monthly, and daily or miscellaneous payroll periods are contained in section 1622 (c)

(b) *Established payroll periods, other than daily or miscellaneous, covered by wage bracket withholding tables.* The wage bracket withholding tables contained in section 1622 (c) for established payroll periods other than daily or miscellaneous should be used in determining the tax to be withheld for any such period without reference to the time the employee is actually engaged in the performance of services during such payroll period.

Example (1). During 1954 employee C has a semimonthly payroll period. The number of withholding exemptions claimed by C is two. During a certain payroll period C works only 40 hours and earns $48. Although C worked only 40 hours during the semimonthly payroll period, the wage bracket withholding table for a semimonthly payroll period should be used in determining the tax to be withheld. Under this table it will be found that no tax is required to be withheld from a wage payment of $48 when two withholding exemptions are claimed.

Example (2). During 1954 employee D has a weekly payroll period. The number of withholding exemptions claimed by D is two. D's wages are determined at the rate of $1.20 per hour. During a certain payroll period D works 30 hours and earns $36. Although D worked only 30 hours during the weekly payroll period, the wage bracket withholding table for a weekly payroll period should be used in determining the tax to be withheld. Under this table it will be found that $2.00 is the amount of tax to be withheld from a wage payment of $36 when two withholding exemptions are claimed.

(c) *Periods to which the table for a daily or miscellaneous payroll period is applicable*—(1) *In general.* The table applicable to a daily or miscellaneous payroll period shows the tax on the amount of wages for one day. Where the withholding is computed under the rules applicable to a miscellaneous payroll period, the wages and the amounts shown in the table must be placed on a comparable basis. This may be accomplished by either of the following methods:

(i) Adjust the amounts shown in the table to accord with the number of days in the period by multiplying such amounts by the number of days in such period. The amount of the tax required to be withheld is determined by applying the table as adjusted to the total wages paid for the period.

(ii) Reduce the wages paid for the period to a daily basis by dividing the total wages by the number of days in the period. Apply the table to the wages so determined and multiply the result by the number of days in the period.

(2) *Period not a payroll period.* If wages are paid for a period which is not a payroll period, the amount to be deducted and withheld under the wage bracket method shall be the amount applicable in the case of a miscellaneous payroll period containing a number of days (including Sundays and holidays) equal to the number of days in the period with respect to which such wages are paid.

Example. During 1954, an individual is hired by a contractor to perform services in connection with a construction project. The number of withholding exemptions claimed by the individual is two. Wages were fixed at the rate of $9 per day, to be paid upon completion of the project. The project was completed during 1954 in 12 days, at the end of which period the individual was paid $90, representing wages for 10 days' services performed during the period. Under the wage bracket method the amount to be deducted and withheld from such wages is determined by dividing the amount of the wages ($90) by the number of days in the period (12), the result being $7.50. The amount of tax required to be withheld is determined under the table applicable to a miscellaneous payroll period. Under this table the tax required to be withheld is $8.40 (12 x $0.70).

(3) *Wages paid without regard to any period.* If wages are paid without regard to any period, as, for instance, commissions paid to a salesman upon consummation of a sale, the amount of tax to be deducted and withheld shall be determined in the same manner as in the case of a miscellaneous payroll period containing a number of days equal to the number of days (including Sundays and holidays) which have elapsed since the date of the last payment of wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the latest.

Example. On April 2, 1954, A is hired by the X Real Estate Co. to sell real estate on a commission basis, commissions to be paid only upon consummation of sales. The number of withholding exemptions claimed by A is one. On May 21, 1954, A receives a commission of $300. Again, on June 16, 1954, A receives a commission of $400. Under the wage bracket method, the amount of tax to be deducted and withheld in respect of the commission paid on May 21 is $37.50, which amount is obtained by multiplying $0.75 (tax under wage bracket table for a daily or miscellaneous payroll period where wages are at least $6 but less than $6.25 a day) by 50 (number of days elapsed); and the amount of tax to be withheld with respect to the commission paid on June 16 is $62.40, which amount is obtained by multiplying $2.40 (tax under wage bracket table for a daily or miscellaneous payroll period where wages are at least $15 but less than $15.50 a day) by 26 (number of days elapsed).

(d) *Period or elapsed time less than one week.* (1) It is the general rule that if wages are paid for a payroll period or other period of less than one week, the tax to be deducted and withheld under the wage bracket method shall be the amount computed for a daily payroll period, or for a miscellaneous payroll period containing the same number of days (including Sundays and holidays) as the payroll period, or other period, for which such wages are paid. In the case of wages paid without regard to any period, if the elapsed time computed as provided in paragraph (c) of this section is less than one week, the same rule is applicable.

Example (1). During 1954 an employee having a daily payroll period is paid wages of $7 per day. The number of withholding exemptions claimed by the employee is one. Under the table applicable to a daily payroll period, the amount of tax to be deducted and withheld from each such payment of wages is $0.95.

Example (2). During 1954 an individual is hired for four days, for which he is paid wages of $36. The number of withholding exemptions claimed by him is two. The amount of tax to be deducted and withheld under the wage bracket method is $4.00 (4×$1.00).

(2) If the payroll period, other period, or elapsed time where wages are paid without regard to any period, is less than one week, the employer may, under certain conditions, elect to deduct and withhold the tax determined by the application of the wage table for a weekly payroll period to the aggregate of the wages paid to the employee during the calendar week. The election to use the weekly wage table in such cases is subject to the limitations and conditions prescribed in § 406.303 (d) with respect to employers using the percentage method in similar cases.

(e) *Rounding off of wage payment.* In determining the amount to be deducted and withheld under the wage bracket method the wage amount may, at the election of the employer, be computed to the nearest dollar, provided such amount is in excess of the highest wage bracket of the applicable table. Thus, if the payroll period of an employee is weekly and the wage payment of such employee is $255.25 the employer may compute the tax on the excess over $200 as if the excess were $55 instead of $55.25.

§ 406.305 *Statutory provisions; income tax collected at source; supplemental wage payments.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(i) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

(1) With respect to a payroll period or other period, any part of which is included in a payroll period or other period with re-

spect to which wages are also paid to such employee by such employer, or

(2) Without regard to any payroll period or other period, but on or prior to the expiration of a payroll period or other period with respect to which wages are also paid to such employee by such employer, or

(3) With respect to a period beginning in one and ending in another calendar year, or

* * * * *

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.306 *Supplemental wage payments*—(a) *In general.* (1) An employee's remuneration may consist of wages paid for a payroll period and supplemental wages, such as bonuses, commissions, and overtime pay, paid for the same or a different period, or without regard to a particular period. When such supplemental wages are paid (whether or not at the same time as the regular wages) the amount of the tax required to be withheld under section 1622 (a) (the percentage method) or under section 1622 (c) (the wage bracket method) shall be determined in accordance with either subparagraph (2) or (3) of this paragraph.

(2) The supplemental wages shall be aggregated with the wages paid for the payroll period, or, if not paid concurrently, shall be aggregated with the wages paid for the last preceding payroll period within the same calendar year or the current payroll period, and the amount of tax to be withheld shall be determined as if the aggregate of the supplemental wages and the regular wages constituted a single wage payment for the regular payroll period.

Example (1). A is employed as a salesman at a monthly salary of $100 plus commissions on sales made during the month. The number of withholding exemptions claimed is one. During January 1954 A earned $275 in commissions, which together with the salary of $100 was paid on February 10, 1954. Under the wage bracket method the amount of the tax required to be withheld is shown in the table applicable to a monthly payroll period. Under this table it will be found that the amount of tax required to be withheld is $57.00.

Example (2). B is employed at a salary of $3,000 per annum paid semimonthly on the 15th day and the last day of each month, plus a bonus and commission determined at the end of each 3-month period. The number of withholding exemptions claimed is four. The bonus and commission for the 3-month period ending on March 31, 1954, amount to $250, which was paid on April 10, 1954. Under the wage bracket method, the amount of tax required to be withheld on the aggregate of the bonus of $250 and the last preceding semimonthly wage payment of $125, or $375, is $46.60. Since tax in the amount of $2.70 was withheld on the semimonthly wage payment of $125, the amount to be withheld on April 10, 1954, is $43.90.

(3) If supplemental wages are paid and tax has been withheld from the employee's regular wages, the employer may determine the tax to be withheld from supplemental wages by using the applicable rate under section 1622 (a) without allowance for exemption and without reference to any regular payment of wages.

(b) *Special rule where aggregate withholding exemption exceeds wages paid.* (1) If supplemental wages are paid to an employee during a calendar year for a period which involves two or more consecutive payroll periods the wages for which are also paid during such calendar year and the aggregate of the wages paid for such payroll periods is less than the aggregate of the amounts determined under the table provided in section 1622 (b) (1) as the withholding exemptions applicable for such payroll periods, the amount of the tax required to be withheld on the supplemental wages shall be computed as follows:

(i) Determine an average wage for each of such payroll periods by dividing the sum of the supplemental wages and the wages paid for such payroll periods by the number of such payroll periods.

(ii) Determine a tax for each payroll period as if the amount of the average wage constituted the wages paid for such payroll period.

(iii) From the sum of the taxes computed on the basis of the average wage per payroll period subtract the sum of the taxes previously withheld for such payroll periods and the remainder, if any, shall constitute the amount of the tax to be withheld upon the supplemental wages.

(2) The rules prescribed in this paragraph shall, at the election of the employer, be applied in lieu of the rules prescribed in paragraph (a) of this section except that this paragraph shall not be applicable in any case in which the payroll period of the employee is less than one week.

Example. An employee has a weekly payroll period ending on Saturday of each week, the wages for which are paid on Friday of the succeeding week. On the 10th day of each month he is paid a bonus based upon production during the payroll periods for which wages were paid in the preceding month. The employee was paid a weekly wage of $64 on each of the five Fridays occurring in January 1954. On February 10, 1954, the employee was paid a bonus of $125 based upon production during the five payroll periods covered by the wages paid in January. On the date of payment of the bonus, the employee, who is married and has three children, has a withholding exemption certificate in effect claiming five withholding exemptions. The amount of the tax to be withheld from the bonus paid on February 10, 1954, is computed as follows:

Wages paid in January 1954 for 5 payroll periods (5×$64)	$320.00
Bonus paid Feb. 10, 1954	125.00
Aggregate of wages and bonus	445.00
Average wage per payroll period ($445—5)	89.00
Computation of tax under percentage method:	
Withholding exemptions (5×$13)	65.00
Remainder subject to tax	24.00
Tax on average wage for 1 week (18 percent of $24)	4.32
Tax on average wage for 5 weeks	$21.60
Less: Tax previously withheld on weekly wage payments of $64	None
Tax to be withheld on supplemental wages	21.60
Computation of tax under wage bracket method:	
Tax on $89 wage under weekly wage table ($4.50 per week for 5 weeks)	22.50
Less: Tax previously withheld on weekly wage payments of $64 ($0.20 per week for 5 weeks)	1.00
Tax to be withheld on supplemental wages	21.50

(c) *Vacation allowances.* Amounts of so-called "vacation allowances" shall be subject to withholding as though they were regular wage payments made for the period covered by the vacation. If the vacation allowance is paid in addition to the regular wage payment for such period, the rules applicable with respect to supplemental wage payments shall apply to such vacation allowance.

§ 406.307 *Statutory provisions; income tax collected at source; payroll period of more than one year.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(i) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

* * * * *

(3) With respect to a period beginning in one and ending in another calendar year, or

* * * * *

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.308 *Wages paid for payroll period of more than one year.* If wages are paid to an employee for a payroll period of more than one year, for the purpose of determining the amount of tax required to be deducted and withheld in respect of such wages—

(a) Under the percentage method, the amount of the tax shall be determined as if such payroll period constituted an annual payroll period, and

(b) Under the wage bracket method, the amount of the tax shall be determined as if such payroll period constituted a miscellaneous payroll period of 365 days.

§ 406.309 *Statutory provisions; income tax collected at source; wages paid on behalf of two or more employers.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(i) *Overlapping pay periods, and so forth.* If a payment of wages is made to an employee by an employer—

* * * * *

(4) Through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays, the wages payable by another employer to such employee,

the manner of withholding and the amount to be deducted and withheld under this subchapter shall be determined in accordance with regulations prescribed by the Commissioner with the approval of the Secretary under which the withholding exemption allowed to the employee in any calendar year shall approximate the withholding exemption allowable with respect to an annual payroll period.

[Sec. 1622 (i), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.310 *Wages paid on behalf of two or more employers.* (a) If a payment of wages is made to an employee by an employer through an agent, fiduciary, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee, the amount of the tax required to be withheld on each wage payment made through such agent, fiduciary, or person shall, whether the wages are paid separately on behalf of each employer or paid in a lump sum on behalf of all such employers, be determined upon the aggregate amount of such wage payment or payments in the same manner as if such aggregate amount had been paid by one employer. Hence, under either the percentage method or the wage bracket method the tax shall be determined upon the aggregate amount of the wage payment.

(b) In any such case, each employer shall be liable for the return and payment of a pro rata portion of the tax so determined, such portion to be determined in the ratio which the amount contributed by the particular employer bears to the aggregate of such wages.

(c) For example, three companies maintain a central management agency which carries on the administrative work of the several companies. The central agency organization consists of a staff of clerks, bookkeepers, stenographers, etc., who are the common employees of the three companies. The expenses of the central agency, including wages paid to the foregoing employees, are borne by the several companies in certain agreed proportions. Companies X and Y each pay 40 percent and Company Z pays 20 percent. The amount of the tax required to be withheld on the wages paid to persons employed in the central agency should be determined in accordance with the provisions of this section. In such event, Companies X and Y are each liable as employers for the return and payment of 40 percent of the tax required to be withheld and Company Z is liable for the return and payment of 20 percent of the tax. (See § 406.807, relating to acts to be performed by agents.)

§ 406.311 *Statutory provisions; income tax collected at source; average wages.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(j) *Withholding on basis of average wages.* The Commissioner may, under regulations prescribed by him with the approval of the Secretary, authorize employers (1) to estimate the wages which will be paid to any employee in any quarter of the calendar year, (2) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and (3) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

[Sec. 1622 (j), as added by sec. 2 (a), Current Tax Payment Act 1943.]

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§ 406.312 *Withholding on basis of average wages.* The Commissioner may authorize the employer to withhold the tax under section 1622 on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. Before using such method the employer must receive authorization from the Commissioner. Applications to use such method must be accompanied by evidence establishing the need for the use of such method.

§ 406.313 *Statutory provisions; income tax collected at source; additional withholding.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(k) *Additional withholding.* The Secretary is authorized by regulations to provide, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this section in cases in which the employer and the employee agree (in such form as the Secretary may by regulations prescribe) to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this subchapter.

[Sec. 1622 (k), as added by sec. 203, Revenue Act 1951.]

§ 406.314 *Additional withholding.* (a) In addition to the tax required to be deducted and withheld in accordance with the provisions of section 1622, the employer and employee may agree that an additional amount shall be withheld from the employee's wages. The agreement shall be in writing and shall be in such form as the employer may prescribe. The agreement shall be effective for such period as the employer and employee mutually agree upon. However, unless the agreement provides for an earlier termination, either the employer or the employee, by furnishing a written notice to the other, may terminate the agreement effective with respect to the first payment of wages made on or after the first "status determination date" (January 1 and July 1 of each year) which occurs at least 30 days after the date on which such notice is furnished.

(b) The amount deducted and withheld pursuant to an agreement between the employer and employee shall be considered as tax required to be deducted and withheld under section 1622. All provisions of law and regulations applicable with respect to the tax required to be deducted and withheld under section 1622 shall be applicable with respect to any amount deducted and withheld pursuant to the agreement.

(c) The amount deducted and withheld pursuant to an agreement between the employer and employee, together with the tax required to be deducted and withheld under section 1622, shall be reported on Form W-2 and on Form 941 as Federal income tax withheld from wages.

§ 406.315 *Statutory provisions; income tax collected at source; withholding exemptions.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(h) *Withholding exemptions*—(1) *In general.* An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(A) An exemption for himself.

(B) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (B) (i) (relating to old age) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(C) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (C) (i) (relating to the blind) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(D) If the employee is married, any exemption to which his spouse is entitled, or would be entitled if such spouse were an employee receiving wages, under subparagraph (A), (B), or (C), but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption.

(E) An exemption for each individual with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (D) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit.

(2) *Exemption certificates.*

(A) *On commencement of employment.* On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

(B) *Change of status, etc.* If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(C) *Change of status, etc., which affects next calendar year.* If on any day during the calendar year the number of withhold-

ing exemptions to which the employee will be, or may reasonably be expected to be, entitled at the beginning of his next taxable year under Chapter 1 is different from the number to which the employee is entitled on such day, the employee shall, in such cases and at such times as the Commissioner, with the approval of the Secretary, may by regulations prescribe, furnish the employer with a withholding exemption certificate relating to the number of withholding exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he will be, or may reasonably be expected to be, so entitled.

(3) *When certificate takes effect.*

(A) *First certificate furnished.* A withholding exemption certificate furnished the employer in cases in which no previous such certificate is in effect shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(B) *Furnished to take place of existing certificate.* A withholding exemption certificate furnished the employer in cases in which a previous such certificate is in effect shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least thirty days from the date on which such certificate is so furnished, except that at the election of the employer such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished; but a certificate furnished pursuant to paragraph (2) (C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished. For the purposes of this subparagraph the term "status determination date" means January 1 and July 1 of each year.

(4) *Period during which certificate remains in effect.* A withholding exemption certificate which takes effect under this subsection shall continue in effect with respect to the employer until another such certificate takes effect under this subsection.

(5) *Contents of certificate.* Withholding exemption certificates shall be in such form and contain such information as the Commissioner may, with the approval of the Secretary, by regulations prescribe.

[Sec. 1622 (h), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 137, Revenue Act 1943; sec. 22 (d) and (f), Individual Income Tax Act 1944; sec. 104 (c), Revenue Act 1945; sec. 202 (b) (1), Revenue Act 1948.]

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SEC. 1626. PENALTIES.

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(d) *Penalties in respect of withholding exemption certificates.* Any individual required to supply information to his employer under section 1622 (h) who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 1622, shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned for not more than one year, or both.

[Sec. 1626 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 25. CREDITS OF INDIVIDUAL AGAINST NET INCOME.

* * * * *

(b) *Credits for both normal tax and surtax*—(1) *Credits.* There shall be allowed for the purposes of both the normal tax and the surtax, the following credits against net income:

(A) An exemption of $600 for the taxpayer; and an additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(B) (i) An additional exemption of $600 for the taxpayer if he has attained the age of 65 before the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(C) (i) An additional exemption of $600 for the taxpayer if he is blind at the close of his taxable year; and

(ii) An additional exemption of $600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this clause the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death;

(iii) For the purposes of this subparagraph an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(D) An exemption of $600 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $600, except that the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse under section 51 for the taxable year beginning in such calendar year.

(2) *Determination of status.* For the purposes of this subsection—

(A) The determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(3) *Definition of dependent.* As used in this chapter the term "dependent" means any of the following persons over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

(A) A son or daughter of the taxpayer, or a descendant of either,

(B) A stepson or stepdaughter of the taxpayer,

(C) A brother, sister, stepbrother, or stepsister of the taxpayer,

(D) The father or mother of the taxpayer, or an ancestor of either,

(E) A stepfather or stepmother of the taxpayer,

(F) A son or daughter of a brother or sister of the taxpayer,

(G) A brother or sister of the father or mother of the taxpayer,

(H) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

As used in this paragraph, the terms "brother" and "sister" include a brother or sister by the half-blood. For the purposes of determining whether any of the foregoing relationships exist (1) a legally adopted child of a person or (2) a child for which petition for adoption was filed by a person in the appropriate court and denied because of mental incapacity of surviving natural parent to agree to such adoption, shall be considered a child of such person by blood. The term "dependent" does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States. A payment to a wife which is includible under section 22 (k) or section 171 in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent.

[Sec. 25 (b), as amended by sec. 6 (a), Revenue Act 1940; secs. 111 (a), 113, Revenue Act 1941; secs. 120 (e) (1), 131 (a) (1) and (b), Revenue Act 1942; sec. 103, Revenue Act 1943; sec. 10 (b), Individual Income Tax Act 1944; sec. 102 (a), Revenue Act 1945; sec. 201, Revenue Act 1948; sec. 310 (a), Revenue Act 1951; sec. 3, Pub. Law 213 (83d Cong.).]

§ 406.316 *Withholding exemptions*—(a) *In general.* (1) An employee receiving wages shall on any day be entitled to withholding exemptions as provided in section 1622 (h) (1) In order to receive the benefit of such exemptions, the employee must file with his employer a withholding exemption certificate as provided in section 1622 (h) (2). See § 406.319.

(2) The number of exemptions to which an employee is entitled on any day depends upon his status as single or married, upon his status as to old age and blindness, upon the number of his dependents, and, if married, upon the number of exemptions claimed by his spouse.

(3) An employee is entitled to one withholding exemption for himself and he may also be entitled to withholding exemptions for old age and blindness.

(b) *Old age or blindness.* If an employee will have attained 65 years before the end of the taxable year he may claim an additional withholding exemption on account of age. If the employee is blind, he may claim an additional withholding exemption for blindness. For the purposes of claiming a withholding exemption for blindness, an individual shall be considered blind only if either his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(c) *Spouse.* (1) A married employee is entitled to one withholding exemption for himself. He is also entitled to one withholding exemption for his spouse, unless his spouse is employed and claims the withholding exemption for herself. Thus, a married couple is entitled to one withholding exemption for each spouse and they each may claim one exemption, but if one spouse does not claim his exemption the other spouse may claim it. If the employee's spouse will have attained 65 years before the end of such employee's taxable year and such spouse has no withholding exemption certificate in effect claiming such exemption, the employee may also claim an additional withholding exemption on account of the

age of his spouse. If the employee's spouse is blind and has no withholding exemption certificate in effect claiming such exemption, the employee may also claim an additional withholding exemption for the blindness of his spouse. If both husband and wife are employees receiving wages subject to withholding and the wife is over the age of 65 and has in effect a withholding exemption certificate claiming only one exemption, then the husband may claim one exemption for her on his certificate.

(2) For the purpose of determining the number of withholding exemptions to which an employee is entitled for himself and his spouse on any day, the employee's status as a single person or a married person and, if married, whether a withholding exemption is claimed by his spouse shall be determined as of such day, but, in the case of a married person, the withholding exemption claimed by an employee for his spouse or on account of the age or blindness of his spouse may be claimed by the employee for that portion of his taxable year which occurs after his spouse's death.

(d) *Dependent.* (1) Subject to the limitations stated in this paragraph, an employee shall also be entitled on any day to a withholding exemption for each individual who may be reasonably expected to be his dependent for the taxable year beginning in the calendar year in which such day falls. For the purposes of the withholding exemption for an individual who may be reasonably expected to be a dependent, the following rules shall apply:

(i) The determination that an individual may or may not be reasonably expected to be a dependent shall be made on the basis of facts existing at the beginning of the day for which a withholding exemption for such individual is to be claimed. The individual in respect of whom an exemption is claimed must be in existence and bear the required relationship to the employee on the day in question.

(ii) The determination that an individual may or may not be reasonably expected to be a dependent shall be made for the taxable year of the employee under chapter 1 of the Internal Revenue Code in respect of which amounts deducted and withheld in the calendar year in which the day in question falls are allowed as a credit. In general, amounts deducted and withheld during any calendar year are allowed as a credit against the tax imposed by chapter 1 for the taxable year which begins in, or with, such calendar year. For example, in order for an employee to be able to claim for a calendar year a withholding exemption with respect to a particular individual (other than the employee's spouse) there must be a reasonable expectation that the employee will be allowed an exemption with respect to such individual under section 25 (b) for his income tax taxable year.

(iii) For the employee to be entitled on any day of the calendar year to a withholding exemption for an individual as a dependent, such individual must on such day be reasonably expected to receive less than $600 of gross income for such calendar year, receive over half of his support from the employee during such calendar year, and be related to the employee in one of the relationships specified in section 25 (b) (3).

(2) If an employee undertakes the support of an individual before July 1 of any calendar year and intends to support such individual for the rest of such year, it will be considered reasonable for such employee to claim for the purposes of the withholding exemption that he expects to furnish more than half the support of such individual for such calendar year.

(3) If a dependent of an employee dies during the calendar year, the withholding exemption for the dependent continues for that portion of the employee's taxable year which follows the dependent's death.

(4) An employee is not entitled to claim a withholding exemption for an individual otherwise reasonably expected to be a dependent of the employee if such individual is a citizen of a foreign country, unless such individual is at any time during the calendar year a resident of the United States, Canada, or Mexico.

§ 406.317 *Statutory provisions; definitions; number of withholding exemptions claimed.*

SEC. 1621. DEFINITIONS.
As used in this subchapter—

* * * * *

(e) *Number of withholding exemptions claimed.* The term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under section 1622 (h), except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

[Sec. 1621 (e), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (a), Individual Income Tax Act 1944.]

§ 406.318 *Number of withholding exemptions claimed.* (a) The term "number of withholding exemptions claimed" is defined in section 1621 (e). The number of withholding exemptions claimed must be taken into account in determining the amount of tax to be deducted and withheld under section 1622, whether the employer computes the tax in accordance with the provisions of subsection (a) or subsection (c) of section 1622.

(b) The employer is not required to ascertain whether or not the number of withholding exemptions claimed is greater than the number of withholding exemptions to which the employee is entitled. If, however, the employer has reason to believe that the number of withholding exemptions claimed by an employee is greater than the number to which such employee is entitled, the district director should be so advised.

(c) As to the number of withholding exemptions to which an employee is entitled, see § 406.316.

§ 406.319 *Withholding exemption certificates*—(a) *In general.* Every employee receiving wages shall furnish his employer a signed withholding exemption certificate on Form W–4, relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled. A withholding exemption certificate shall be furnished the employer by such employee on or before the date of the commencement of employment with the employer. The employer is required to request a withholding exemption certificate from each employee, but if the employee fails to furnish such certificate, such employee shall be considered as claiming no withholding exemptions. Forms of certificate (Form W–4) will be supplied employers upon request to the district director. In lieu of the prescribed form of certificate, employers may prepare and use a form the provisions of which are identical with the prescribed form. The certificate must be retained by the employer as a supporting record of the withholding exemption claimed. Section 1622 (h) (2) (B) provides for the filing of a new withholding exemption certificate when any change occurs which affects the number of withholding exemptions to which an employee is entitled.

(b) *Change in exemptions.* (1) If, on any day during the calendar year, the number of withholding exemptions of an employee is more than the number of withholding exemptions claimed on the withholding exemption certificate then in effect, the employee may furnish the employer with a new withholding exemption certificate on which the employee must in no event claim more than the number of withholding exemptions to which he is entitled on such day.

(2) If, however, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed on the withholding exemption certificate then in effect, the employee must within 10 days after the change occurs furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which must in no event exceed the number to which he is entitled on such day. The number of withholding exemptions to which an employee is entitled decreases for any of the following reasons:

(i) The employee's wife (or husband) for whom the employee has been claiming a withholding exemption, is divorced or legally separated from the employee, or claims her (or his) own withholding exemption on a separate certificate.

(ii) The support of an individual for whom the employee has been claiming a withholding exemption is taken over by someone else, so that it can no longer be reasonably expected that the employee will furnish over half of the support of such individual for the particular calendar year.

(iii) The employee finds that an individual claimed as a dependent on a withholding exemption certificate will receive $600 or more of gross income of his or her own during the current calendar year.

(c) *Change in exemptions which affects next taxable year.* (1) If on any day during the calendar year the number of exemptions to which the employee will be, or may be reasonably expected to be, entitled at the beginning of his next

taxable year under chapter 1 of the Internal Revenue Code is different from the number to which the employee is entitled on such day, the following rules shall be applicable:

(i) If such number is greater than the number of withholding exemptions claimed in a withholding exemption certificate in effect on such day, the employee may, on or before December 1 of the year in which such change occurs, unless such change occurs in December, furnish his employer with a new withholding exemption certificate reflecting the increase in the number of withholding exemptions. If the change occurs in December, the certificate may be furnished on or after the date on which the change occurs.

(ii) If such number is less than the number of withholding exemptions claimed in a withholding exemption certificate in effect on such day, the employee must, on or before December 1 of the year in which the change occurs, unless such change occurs in December, furnish his employer with a new withholding exemption certificate reflecting the decrease in the number of withholding exemptions. If the change occurs in December, the new certificate must be furnished within 10 days of the date on which the change occurs.

(2) Before December 1 of each year, every employer should request his employees to file new withholding exemption certificates for the ensuing year, in the event of change in their exemption status since the filing of their latest certificates. The number of exemptions to which an employee is entitled at the beginning of the next taxable year under chapter 1 of the Code decreases, for example, for any of the following reasons:

(i) The spouse or a dependent of the employee dies.

(ii) The employee ceases late in the year to support an individual so that it is not reasonable to expect that more than half of the individual's support will be received from the employee during the ensuing year.

(iii) A dependent of the employee begins to receive income late in the year so that it is reasonable to expect that the dependent will have a gross income of $600 or more for the ensuing year.

(d) *Penalties.* Section 1626 (d) provides criminal penalties applicable with respect to individuals who are required under section 1622 (h) to furnish to their employers information relating to the number of withholding exemptions claimed. The penalties are imposed upon any such individual (1) who willfully supplies false or fraudulent information, or (2) who willfully fails to supply information which would increase the tax required to be withheld at the source on his wages. The penalty in each instance is a fine of not more than $500 or imprisonment for not more than one year, or both. Such penalties are in lieu of any penalties otherwise provided by law for failure to furnish the information required by section 1622 (h) or for the furnishing of false or fraudulent information under such section.

§ 406.320 *When withholding exemption certificates effective.* (a) A withholding exemption certificate furnished the employer in any case in which no previous withholding exemption certificate is in effect with such employer, shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

(b) A withholding exemption certificate furnished the employer in any case in which a previous withholding exemption certificate is in effect with such employer shall, except as hereinafter provided, take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days from the date on which such certificate is so furnished. However, at the election of the employer, except as hereinafter provided, such certificate may be made effective with respect to any payment of wages made on or after the date on which such certificate is so furnished.

(c) A withholding exemption certificate furnished the employer pursuant to section 1622 (h) (2) (C) which effects a change for the next year, shall not take effect, and may not be made effective, with respect to the calendar year in which the certificate is furnished.

(d) For the purposes of this section the term "status determination date" means January 1 and July 1 of each year.

(e) A withholding exemption certificate which takes effect under section 1622 (h) shall continue in effect with respect to the employee until another withholding exemption certificate takes effect under such section.

SUBPART D—LIABILITY FOR TAX

§ 406.400 *Statutory provisions; liability for tax.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

(a) *Requirement of withholding.* Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to 18 per centum of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b) (1) * * *

* * * * *

(d) *Tax paid by recipient.* If the employer, in violation of the provisions of this subchapter, fails to deduct and withhold the tax under this subchapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to deduct and withhold.

[Sec. 1622 (a), as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 22 (b), Individual Income Tax Act 1944; sec. 104 (a) (1), Revenue Act 1945; sec. 501, Revenue Act 1948; sec. 141, Revenue Act 1950; sec. 201, Revenue Act 1951; and sec. 1622 (d), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 1623. LIABILITY FOR TAX.

The employer shall be liable for the payment of the tax required to be deducted and withheld under this subchapter, and shall not be liable to any person for the amount of any such payment.

[Sec. 1623, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 3691. ENFORCEMENT OF LIABILITY FOR TAXES COLLECTED.

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

§ 406.401 *Liability for tax.* (a) The employer is required to collect the tax by deducting and withholding the amount thereof from the employee's wages as and when paid, either actually or constructively. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case, the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his control and disposition.

(b) An employer is required to deduct and withhold the tax notwithstanding the wages are paid in something other than money (for example, wages paid in stocks or bonds; see § 406.207 (a)) and to pay the tax to the district director or duly designated depositary of the United States, as the case may be, in money. If wages are paid in property other than money, the employer should make necessary arrangements to insure that the amount of the tax required to be withheld is available for payment to the district director in money.

(c) Every person required to deduct and withhold the tax under section 1622 from the wages of an employee is liable for the payment of such tax whether or not it is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. However, if the employer in violation of the provisions of section 1622 fails to deduct and withhold the tax, and thereafter the income tax against which the tax under section 1622 may be credited is paid, the tax under section 1622 shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties or additions to the tax for failure to deduct and withhold within the time prescribed by law or regulations made in pursuance of law. The employer will not be relieved of his liability for payment of the tax required to be withheld unless he can show that the tax against which the tax under section 1622 may be credited has been paid.

(d) The amount of any tax withheld and collected by the employer is a special fund in trust for the United States.

(e) The employer or other person required to deduct and withhold the tax under section 1622 is relieved of liability to any other person for the amount of any such tax withheld and paid to the district director or deposited with a duly designated depositary of the United States.

(f) Section 2707 provides severe penalties for a willful failure to pay, collect, or truthfully account for and pay over, the tax imposed by section 1622, or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(g) As a matter of business administration, certain of the mechanical details of the withholding process may be handled by representatives of the employer. Thus, in the case of a corporate employer having branch offices, the branch manager or other representative may actually as a matter of internal administration, withhold the tax or prepare the statements required under section 1633. Nevertheless, the legal responsibility for withholding, paying, and returning the tax and furnishing such statements rests with the corporate employer.

§ 406.402 *Statutory provisions; nondeductibility of tax in computing net income.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(e) *Nondeductibility of tax in computing net income.* The tax deducted and withheld under this subchapter shall not be allowed as a deduction either to the employer or to the recipient of the income in computing net income for the purpose of any tax on income imposed by Act of Congress.

[Sec. 1622 (e), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

§ 406.403 *Nondeductibility of tax.* The tax deducted and withheld at the source upon wages shall not be allowed as a deduction either to the employer or the recipient of the income in computing net income under chapter 1 of the Internal Revenue Code. The entire amount of the wages from which the tax is withheld shall be included in gross income in the return required to be made by the recipient of the income without deductions for such tax. The tax withheld at source, however, is allowable as a credit against the tax imposed by chapter 1 of the Internal Revenue Code upon the recipient of the income. See § 406.705.

SUBPART E—RECEIPTS

§ 406.500 *Statutory provisions; receipts for employees.*

SEC. 1633. RECEIPTS FOR EMPLOYEES.

(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 1400 or 1622, or who would have been required to deduct and withhold a tax under section 1622 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following: (1) the name of such person, (2) the name of the employee (and his social security account number if wages as defined in section 1426 (a) have been paid), (3) the total amount of wages as defined in section 1621 (a), (4) the total amount deducted and withheld as tax under section 1622, (5) the total amount of wages as defined in section 1426 (a), and (6) the total amount deducted and withheld as tax under section 1400. In the case of compensation paid for service as a member of the armed forces, the statement shall show, as wages paid during the calendar year, the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 1621 (a)); such statement to be furnished if any tax was withheld during the calendar year or if any of the compensation paid is includible under chapter 1 in gross income.

(b) *Statements to constitute information returns.* The statements required to be furnished by this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Commissioner, with the approval of the Secretary, may by regulations prescribe. A duplicate of any such statement if made and filed in accordance with regulations prescribed by the Commissioner with the approval of the Secretary shall constitute the return required to be made in respect of such remuneration under section 147.

(c) *Extension of time.* The Commissioner, under such regulations as he may prescribe with the approval of the Secretary, may grant to any person a reasonable extension of time (not in excess of thirty days) with respect to the statements required to be furnished under this section.

[Sec. 1633, as added by sec. 206 (a), Social Security Act Amendments 1950, and as amended by sec. 202 (c), Revenue Act 1950.]

SEC. 1634. PENALTIES.

(a) *Penalties for fraudulent statement or failure to furnish statement.* In lieu of any other penalty provided by law (except the penalty provided by subsection (b) of this section), any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure, upon conviction thereof, be fined not more than $1,000, or imprisoned for not more than one year, or both.

(b) *Additional penalty.* In addition to the penalty provided by subsection (a) of this section, any person required under the provisions of section 1633 to furnish a statement who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 1633, or regulations prescribed thereunder, shall for each such failure be subject to a civil penalty of $50. Such penalty shall be assessed and collected in the same manner as the tax imposed by section 1410.

[Sec. 1634, as added by sec. 206 (a), Social Security Act Amendments 1950.]

§ 406.501 *Receipts for employees—*(a) *Requirement.* (1) Every person required to deduct and withhold from an employee a tax under section 1622, or who would have been required to deduct and withhold a tax under section 1622 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee, in respect of the remuneration paid by such person to such employee during the calendar year, the original and duplicate of a statement on Form W–2 showing the following: (i) The name and address of such person, (ii) the name and address of the employee, and, if wages as defined in section 1426 (a) have been paid, his social security account number, (iii) the total amount of wages as defined in section 1621 (a) (iv) the total amount deducted and withheld as tax under section 1622, (v) the total amount of wages as defined in section 1426 (a), and (vi) the total amount of employee tax under section 1400 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year).

(2) For example, if the wage bracket method of withholding is used, a withholding statement must be furnished each employee whose wages during any payroll period are equal to or in excess of the smallest wage for which tax must be withheld from employees claiming one exemption. If the percentage method is used, a withholding statement must be furnished each employee whose wages during any payroll period are in excess of one withholding exemption for such payroll period as shown in the percentage method withholding table contained in section 1622 (b) (1)

(3) If (i) the amount of employee tax under section 1400 deducted and withheld in the calendar year from the wages as defined in section 1426 (a) paid during such year was less or greater than the tax imposed by section 1400 on such wages by reason of the adjustment in such year of an overcollection or undercollection of the tax in any prior year, or (ii) regardless of the reason for the error or the method of its correction, the amount of wages as defined in section 1426 (a) or tax under section 1400 entered on a statement furnished to the employee for a prior year was incorrect, a corrected statement for such prior year reflecting the adjustment or the correct data shall be furnished to the employee.

(4) Likewise, a corrected statement on Form W–2 shall be furnished the employee with respect to a prior calendar year (i) to show the correct amount of wages (as defined in section 1621 (a)) paid during the prior calendar year if the amount of such wages entered on a statement furnished to the employee for such prior year is incorrect or (ii) to show the amount actually deducted and withheld as tax under section 1622 if such amount is less or greater than the amount entered as tax withheld on the statement furnished the employee for such prior year.

(5) The statement on Form W–2 for the calendar year and the corrected statement for any prior year shall be furnished to the employee on or before

January 31 of the year succeeding such calendar year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made. See paragraph (c) of this section for extension of time for furnishing statements.

(6) See the applicable regulations under the Federal Insurance Contributions Act for the requirement as to the furnishing of a statement in cases where such statement is required solely by reason of the tax under section 1400 of such Act. Also see such regulations with respect to adjustments of that tax.

(b) *Receipts for members of the Armed Forces of the United States.* Section 1633 (a) contains certain special provisions which are applicable in the case of members of the Armed Forces of the United States in active service. In such case, Form W–2 shall be furnished to each such member of the Armed Forces of the United States if any tax has been withheld during the calendar year from the remuneration of such member or if any of the remuneration paid during the calendar year for such active service is includible under chapter 1 in the gross income of such member. Form W–2, in the case of such member, shall show, as wages paid during the calendar year, the amount of the remuneration paid during the calendar year which is not excludable under chapter 1 from the gross income of such member, whether or not such remuneration constitutes wages as defined in section 1621 (a) and whether or not paid for such active service.

(c) *Extension of time for furnishing receipts to employees*—(1) *In general.* For good cause shown upon application by the employer, the district director of internal revenue may grant an extension of time within which to furnish the written statement provided for in paragraph (a) of this section.

(2) *Upon termination of employment.* An extension of time, not exceeding 30 days, within which to furnish the written statement provided for in paragraph (a) of this section upon termination of employment is hereby granted to any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a written statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from that time.

(d) *Undelivered Forms W–2.* The original and duplicate of each withholding statement on Form W–2 for the calendar year, and of any corrected statement for a prior year, which the employer is required to furnish to an employee and which after reasonable effort he is unable to deliver to the employee shall be transmitted to the district director with the return on Form 941 filed by the employer for the first calendar quarter of the next succeeding calendar year or with the employer's final return if filed at an earlier date. The Forms W–2 shall be accompanied by a statement setting forth the reasons why the employer was unable to make delivery.

(e) *Form 1099 information returns.* The making of an information return on Form 1099 will not be required with respect to any wages reported on Form W–2, provided the triplicates of the statements (Form W–2a) are transmitted with the returns on Form 941, as provided in § 406.601.

(f) *Penalties for fraudulent receipt or failure to furnish receipt.* Section 1634 imposes criminal and civil penalties for the willful failure to furnish a statement in the manner, at the time, and showing the information required under section 1633 or regulations prescribed thereunder or for willfully furnishing a false or fraudulent statement. For each such violation, the criminal penalty is a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the civil penalty is a fine of $50. The civil penalty shall be assessed and collected in the same manner as the tax imposed by section 1410. These penalties are in lieu of any other penalties provided by law respecting the failure to furnish a statement or the furnishing of a false or fraudulent statement.

SUBPART F—RETURNS, PAYMENT OF TAX, AND RECORDS

§ 406.600 *Statutory provisions; returns; payment of tax; and records.*

SEC. 1420. COLLECTION AND PAYMENT OF TAXES.

(a) *Administration.* The taxes imposed by this subchapter shall be collected by the Bureau of Internal Revenue [Internal Revenue Service] under the direction of the Secretary and shall be paid into the Treasury of the United States as internal-revenue collections.

* * * * *

(c) *Method of collection and payment.* Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this subchapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner, with the approval of the Secretary.

(d) *Fractional parts of a cent.* In the payment of any tax under this subchapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

* * * * *

SEC. 1624. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

If the employer is the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages may be made by any officer or employee of the United States, or of such State, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.

[Sec. 1624, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 3310. RETURNS AND PAYMENT OF TAX.

* * * * *

(f) *Discretion allowed Commissioner*—(1) *Returns and payment of tax.* Notwithstanding any other provision of law relating to the filing of returns or payment of any tax imposed by chapter 9 * * * the Commissioner may by regulations approved by the Secretary prescribe the period for which the return for such tax shall be filed, the time for the filing of such return, the time for the payment of such tax, and the number of copies of the return required to be filed.

(2) *Use of Government depositaries.* The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this title, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, times, and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the collector [district director].

[Sec. 3310 (f), as added by sec. 7 (a), Pub. Law 271 (81st Cong.), and as amended by sec. 471 (b), Revenue Act 1951.]

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1430. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to any tax imposed by section 2700 or section 1800, and the provisions of section 3661, shall, insofar as applicable and not inconsistent with the provisions of this subchapter, be applicable with respect to the taxes imposed by this subchapter.

[Sec. 1430, as amended by sec. 903, Social Security Act Amendments 1939.]

SEC. 2703. RECORDS, STATEMENTS, AND RETURNS.

Every person liable to any tax imposed by this subchapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

SEC. 2701. RETURNS.

Every person liable for the tax * * * shall make * * * returns under oath * * * to the collector [district director] for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

SEC. 3603. NOTICE REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

SEC. 3632. AUTHORITY TO ADMINISTER OATHS, TAKE TESTIMONY, AND CERTIFY.

(a) *Internal Revenue personnel*—(1) *Persons in charge of administration of internal revenue laws generally.* Every collector [district director], * * * internal revenue agent, and internal revenue officer assigned to duty under an internal revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

(2) *Persons in charge of exports and drawbacks.* Every collector [district director] of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal revenue laws.

(b) *Others.* Any oath or affirmation required or authorized by any internal revenue law or by any regulations made under authority thereof may be administered by any person authorized to administer oaths for general purposes by the law of the United States, or of any State, Territory, or possession of the United States, or of the District of Columbia, wherein such oath or affirmation is administered, or by any consular officer of the United States. This subsection shall not be construed as an exclusive enumeration of the persons who may administer such oaths or affirmations.

SEC. 3809. VERIFICATION OF RETURNS; PENALTIES OF PERJURY.

(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

[Sec. 3809, as added by sec. 4 (a), Pub. Law 271 (81st Cong.).]

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR [DISTRICT DIRECTOR].

(a) *Authority of collector [district director].* If any person fails to make and file a return or list at the time prescribed by law or by regulations made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector [district director] or deputy collector [internal revenue agent] shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise.

(b) *Authority of Commissioner.* In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise—

(1) *To make return.* Make a return, or

(2) *To amend collector's [district director's] return.* Amend any return made by a collector [district director] or deputy collector [internal revenue agent].

(c) *Legal status of returns.* Any return or list so made and subscribed by the Commissioner, or by a collector [district director] or deputy collector [internal revenue agent] and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

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SEC. 3614. EXAMINATION OF BOOKS AND WITNESSES.

(a) *To determine liability of the taxpayer.* The Commissioner, for the purpose of ascertaining the correctness of any return or, for the purpose of making a return where none has been made, is authorized, by any officer or employee of the Bureau of Internal Revenue [Internal Revenue Service], including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

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SEC. 2702. PAYMENT OF TAX.

(a) *Date of payment.* The tax shall, without assessment by the Commissioner or notice from the collector [district director], be due and payable to the collector [district director] for the district in which is located the principal place of business, at the time fixed * * * for filing the return.

* * * * *

§ 406.601 *Returns*—(a) *Requirement.* Every person shall make a return for the first calendar quarter after December 31, 1953, within which he is required under section 1622 to deduct and withhold the tax on wages, and for each subsequent quarter (whether or not wages are paid therein) until a final return is filed as required by § 406.602. Every person required to make a return for the calendar quarter ended December 31, 1953, shall make a return for each subsequent calendar quarter (whether or not wages are paid therein) until a final return is filed as required by § 406.602. Form 941 is the form prescribed for making a return of the tax required under section 1622 to be deducted and withheld from wages.

(b) *Forms W–2a.* (1) The triplicate of the withholding statement (Form W–2a) furnished by the employer with respect to wages paid during the calendar year, as well as the triplicate of any corrected statement for a prior year, shall be included with the return on Form 941 filed by the employer—

(i) For each tax-return period, in the case of each employee whose last payment of wages upon termination of employment with the employer is made in such period; and

(ii) For the fourth quarter of the calendar year, in the case of each employee who remains in the employ of the employer at the close of such year.

(2) Each return shall include a list (preferably in the form of an adding machine tape) of the amounts of income tax withheld shown on the Forms W–2a for the current calendar year transmitted therewith. If an employer's total payroll consists of a number of separate units or establishments, the Forms W–2a may be assembled accordingly and a separate list or tape submitted for each unit. In such case, a summary list or tape should be submitted, the total of which will agree with the corresponding entry to be made on Form 941. Where the number of triplicate statements is large, they may be forwarded in packages of convenient size. When this is done the packages should be identified with the name of the employer and consecutively numbered. The number of packages should be indicated at the top of Form 941. The tax return, Form 941, and remittance in cases of this kind should be filed in the usual manner, accompanied by a brief statement that Forms W–2a are in separate packages.

(3) The corrected Forms W–2a for a prior calendar year shall be assembled separately from the Forms W–2a for the current calendar year and shall be accompanied by a statement explaining the corrections.

(c) *Period covered by return.* Except in the case of quarterly adjustments, as explained in § 406.701, the return on Form 941 may not be made for more than one calendar quarter of the year, nor may a portion of one calendar quarter be included with a portion of another calendar quarter in a single return on Form 941 even though the entire period does not exceed three months.

§ 406.602 *Final returns.* (a) The last return on Form 941 for any employer required to deduct and withhold any tax under section 1622 who ceases to pay wages shall be marked "Final return" by such employer or the person filing the return. Such final return shall be filed with the district director on or before the thirtieth day after the date on which the final payment of wages is made for services performed for such employer, and shall plainly show the period covered by the return and the date of the last payment of wages. An employer required to make a return on Form 941, who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns, but shall enter on the face of any return on which no tax is required to be reported the date of the last payment of wages and the date when he expects to resume paying wages. If an employer ceases to pay wages as defined in section 1621 (a) but continues to pay wages as defined in section 1426 (a), no final return on Form 941 should be filed so long as he continues to pay such wages. However, if an employer who has been paying remuneration which constitutes wages as defined in each of such sections permanently ceases to pay such wages, a final return is required of such employer.

(b) There shall be executed as a part of each final return on Form 941 a statement giving the address at which the records required by § 406.607 will be kept, the name of the person keeping such records, and, if the business has been sold or otherwise transferred to another person, the name and address of such person and the date on which the sale or other transfer took effect. If no such sale or transfer occurred or the employer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

§ 406.603 *Execution of returns*—(a) *Requirement.* Each return shall be signed by the employer or other person required to deduct and withhold the tax and shall contain or be verified by a written declaration that it is made under the penalties of perjury. The return shall be signed and verified by (1) the individual, if the employer is an individual; (2) the president, vice-president, or other principal officer, if the employer is a corporation; (3) a responsible and duly

authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization; or (4) the fiduciary, if the employer is a trust or estate. The employer's return may be executed by an agent in the name of the employer if an acceptable power of attorney is filed with the district director and if such return includes the wages paid to all employees of the employer for the period covered by the return. If the United States, a State, Territory, Puerto Rico, or political subdivision, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, is the employer, the return may be made by the officer or employee having control of the payment of wages or other officer or employee appropriately designated for that purpose.

(b) *Penalties of perjury.* Section 3809 (a) provides that any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony. The punishment for such offense, upon conviction thereof, is a fine of not more than $2,000 or imprisonment for not more than five years, or both.

§ 406.604 *Use of prescribed forms.* (a) Copies of the prescribed return forms will so far as possible be regularly furnished employers by district directors without application therefor. An employer will not be excused from making a return, however, by the fact that no return form has been furnished to him. Employers not supplied with the proper forms should make application therefor to the district director in ample time to have their returns prepared, verified, and filed with the district director on or before the due date. (See § 406.605, relating to the place and time for filing returns; see also § 406.602, relating to final returns.) If the prescribed form is not available, a statement made by the employer disclosing the amount of tax due may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the employer from liability for the addition to tax imposed for the delinquent filing of the return (see § 406.810, relating to the addition to tax) provided that without unnecessary delay such tentative return is supplemented by a return made on the proper form.

(b) Each return, together with a copy thereof and any supporting data, shall be filled in and disposed of in accordance with the instructions and regulations applicable thereto. (See § 406.605, relating to the place and time for filing returns, and § 406.607 (c) and (e) relating to copies of returns, schedules, and statements, and to the place and period for keeping records.) The return shall be carefully prepared so as fully and accurately to set forth the data therein called for. Returns which have not been so prepared will not be accepted as meeting the requirements of the statute. Only one return on any one prescribed form for a tax-return period shall be filed by or for an employer.

§ 406.605 *Place and time for filing returns.* Each return on Form 941 shall be filed with the district director for the district in which is located the principal place of business of the employer, or, if the employer has no principal place of business in an internal revenue district of the United States, with the district director at Baltimore, Md. Except as provided in § 406.602, relating to final returns, each return shall be filed on or before the last day of the first month following the period for which it is made. However, if, and only if, the return is accompanied by depositary receipts, Form 450, showing timely deposits, in full payment of the taxes due for the entire calendar quarter, the return may be filed on or before the 10th day of the second month following the period for which it is made. For the purpose of the preceding sentence, the timeliness of the deposit will be determined by the date of the endorsement by a designated commercial bank or by a Federal Reserve bank made on the reverse side of Form 450. Deposit of the taxes for the last month of the calendar quarter with a designated commercial bank or a Federal Reserve bank, as the case may be, may be made on or before the last day of the first month following the close of such quarter. If the last day for filing any return falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the district director's office, under ordinary handling of the mails, on or before the due date. As to additions to tax for failure to file the return within the prescribed time, see § 406.810. See also section 2707, relating to penalties.

§ 406.606 *Payment of tax*—(a) *In general.* The tax required to be reported on each return on Form 941 is due and payable to the district director, without assessment by the Commissioner or notice by the district director, at the time fixed for filing such return. For provisions relating to interest, additions to tax, and penalties, see §§ 406.809, 406.810, and 406.812 and section 2707.

(b) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of taxes*—(1) *Requirement.* Except as provided in subparagraph (2) of this paragraph, if during any calendar month the aggregate amount of—

(i) The employee tax withheld under section 1401,

(ii) The employer tax for such month under section 1410, and

(iii) The income tax withheld at source on wages under section 1622,

exclusive of taxes under sections 1401 and 1410 with respect to wages of household employees, exceeds $100 in the case of an employer, it will be the duty of such employer to deposit such amount within 15 days after the close of such calendar month with a Federal Reserve bank. The remittance of such amount shall be accompanied by a Federal Depositary Receipt (Form 450). Such depositary receipt shall be prepared in accordance with the instructions and regulations applicable thereto. The employer, at his election, may forward such remittance, together with such depositary receipt, to a commercial bank authorized in accordance with Treasury Department Circular No. 848 to accept remittances of the aforementioned taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the employer. Every employer making deposits pursuant to this paragraph shall attach to his return for the calendar quarter with respect to which such deposits are made, in part or full payment of the taxes shown thereon, depositary receipts so validated, and shall pay to the district director the balance, if any, of the taxes due for such quarter.

(2) *Payments for last month of the calendar quarter.* With respect to the taxes specified in subparagraph (1) of this paragraph for the last month of the calendar quarter, the employer may either include with his return direct remittance to the district director for the amount of such taxes or attach to such return a depositary receipt validated by a Federal Reserve bank as provided in subparagraph (1) of this paragraph. Payment of the taxes required to be reported on each return, in the form of validated depositary receipts or direct remittances, shall be made to the district director at the time fixed for filing such return. If a deposit is made for the last month of the quarter, the employer shall make it in ample time (whether before, on, or after the 15th day of the succeeding month) to enable the Federal Reserve bank to return the validated receipt to the employer so that it can be attached to and filed with the employer's return at the time so fixed.

(3) *Procurement of prescribed form.* Initially, Form 450, Federal Depositary Receipt, will so far as possible be furnished the employer by the district director. An employer not supplied with the proper form should make application therefor to the district director in ample time to have such form available for use in making his initial deposit within the time prescribed in subparagraph (1) of this paragraph. Thereafter a blank form will be sent to the employer by the Federal Reserve bank when returning the validated depositary receipt. An employer may secure additional forms from a Federal Reserve bank by applying therefor and advising the bank of his identification number. (See § 406.201 (f).) The district director will assign an identification number to each employer who is not required either to withhold the employee tax under section 1401 or to pay the employer tax under section 1410. Every employer making deposits pursuant to this paragraph shall make such use of his identification number as is prescribed by this paragraph and by the instructions relating to Form 941 and to Form 450. The employer's identification number and name, on each depositary receipt, should be the same as they are required to be shown on the return to be filed with the district director. The

address of the employer, as shown on each depositary receipt, should be the address to which the receipt should be returned following validation by the Federal Reserve bank.

§ 406.607 *Records*—(a) *Records of employers.* (1) Every employer required to deduct and withhold the tax shall keep accurate records of all remuneration paid to his employees. Such records shall show with respect to each employee—

(i) The name and address of the employee;

(ii) To the extent material to the determination of tax liability, the dates on which the employee worked during each calendar quarter, including the days for which remuneration is paid or payable, and the character of the services performed;

(iii) The total amount (including any sum withheld therefrom as tax or for any other reason) and date of each remuneration payment, and the period of services covered by such payment;

(iv) The amount of each remuneration payment which constitutes wages subject to withholding;

(v) The amount of tax withheld or collected with respect to each remuneration payment and, if collected at a time other than the time such payment was made, the date collected;

(vi) The withholding exemption certificates (Form W–4) filed with the employer by the employee;

(vii) The agreements, if any, between the employer and the employee for the withholding of additional amounts of tax pursuant to § 406.314;

(viii) Copies of any statements furnished by the employee pursuant to § 406.224 (c) (relating to nonresident alien individuals who are residents of a contiguous country)

(ix) Copies of any statements furnished by the employee pursuant to § 406.226 (a) (relating to residence or physical presence in a foreign country) and

(x) Copies of any statements furnished by the employee pursuant to § 406.226 (c) (relating to citizens resident in Puerto Rico)

The term "remuneration" as used in this paragraph (a) includes all payments whether in cash or in a medium other than cash, except that the term does not include payments in a medium other than cash for services not in the course of the employer's trade or business. If the total remuneration payment (subdivision (iii) of subparagraph (1)) and the amount thereof which is taxable (subdivision (iv) of subparagraph (1)) are not equal, the reason therefor shall be made a matter of record.

(2) Accurate records of the details of each adjustment or settlement made pursuant to § 406.701 shall also be kept.

(3) No particular form is prescribed for keeping the records required by this paragraph (a) Each employer shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which the employer is liable are correctly computed and paid.

(b) *Records of employees.* While not mandatory, it is advisable for each employee to keep permanent, accurate records showing the name and address of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, the information with respect to himself which is required by paragraph (a) of this section to be kept by employers, and the receipts furnished in accordance with the provisions of § 406.501. (See, however, paragraph (d) of this section, relating to records of claimants.)

(c) *Copies of returns, schedules, and statements.* Every employer who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as part of his records.

(d) *Records of claimants.* Any person (including an employee) claiming refund, credit, or abatement of any tax, penalty, or interest shall keep a complete and detailed record with respect to such tax, penalty, or interest.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. If the employer has a principal place of business in the United States, the records required by paragraphs (c) and (d) of this section shall be kept at such place of business.

(2) Records required by paragraphs (a) and (c) of this section shall be maintained for a period of at least four years after the date the tax to which they relate becomes due, or the date the tax is paid, whichever is the later. Records required by paragraph (d) of this section (including any record required by paragraph (a) or (c) which relates to a claim) shall be maintained for a period of at least four years after the date the claim is filed.

SUBPART G—ADJUSTMENTS, REFUNDS, CREDITS, AND ABATEMENTS

§ 406.700 *Statutory provisions; adjustments.*

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1401. DEDUCTION OF TAX FROM WAGES.

* * * * *

(c) *Adjustments.* If more or less than the correct amount of tax imposed by section 1400 is paid with respect to any payment of remuneration, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as may be prescribed by regulations made under this subchapter.

[Sec. 1401 (c), as amended by sec. 602 (a), Social Security Act Amendments 1939.]

* * * * *

§ 406.701 *Quarterly adjustments*—(a) *In general.* If, for any quarter of the calendar year, more or less than the correct amount of the tax is withheld, or more or less than the correct amount of the tax is paid to the district director, proper adjustment, without interest, may be made in any subsequent quarter of the same calendar year. No adjustment, however, under the provisions of this section shall be made in respect of an underpayment for any quarter after receipt from the district director of notice and demand for payment thereof based upon an assessment, but the amount shall be paid in accordance with such notice and demand; nor shall any adjustment under the provisions of this section be made in respect of an overpayment for any quarter after the filing of a claim for refund thereof. Every return on which an adjustment for a preceding quarter is reported must have securely attached as a part thereof a statement explaining the adjustment, and designating the quarterly return period in which the error occurred. If an adjustment of an overcollection of tax which the employer has repaid to an employee is reported on a return, such statement shall include the fact that such tax was repaid to the employee.

(b) *Less than correct amount of tax withheld.* (1) If none, or less than the correct amount, of the tax is deducted from any wage payment and the error is ascertained prior to the making of the return on Form 941 for the quarter in which such wages are paid, the employer shall nevertheless report on such return and pay to the district director the correct amount of the tax required to be withheld. If the error is not ascertained until after the making of the return on Form 941 for the quarter in which such wages are paid, the undercollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year, subject, however, to the limitations noted in paragraph (a) of this section. The amount of any undercollection adjusted in accordance with this paragraph shall be paid to the district director, without interest, at the time prescribed for payment of the tax for the quarter in which such adjustment is made. If an adjustment is made pursuant to this paragraph but the amount thereof is not paid when due, interest thereafter accrues. See section 1420 (b)

(2) If none, or less than the correct amount, of the tax is withheld from any wage payment, the employer may correct the error by deducting the amount of the undercollection from remuneration of the employee, if any, under his control after he ascertains the error. Such deduction may be made even though the remuneration, for any reason, does not constitute wages. The obligation of an employee to the employer with respect to an undercollection of tax from the employee's wages not subsequently corrected by a deduction made as prescribed herein is a matter for settlement between the employee and the employer.

In this connection, see section 1622 (d) relieving the employer from liability for the tax if the tax imposed by chapter 1 of the Internal Revenue Code against which the tax withheld at source is allowable as a credit, has been paid by the employee or other person liable therefor.

(c) *More than correct amount of tax withheld.* (1) If, in any quarter, more than the correct amount of tax is deducted from any wage payment, the overcollection may be repaid to the employee in any quarter of the same calendar year. If the amount of the overcollection is repaid, the employer shall obtain and keep as part of his records the written receipt of the employee showing the date and amount of the repayment.

(2) If an overcollection in any quarter is repaid and receipted for by the employee prior to the time the return on Form 941 for such quarter is filed with the district director, the amount of such overcollection shall not be included in the return for such quarter.

(3) Subject to the limitations provided in paragraph (a) if an overcollection in any quarter is repaid and receipted for by the employee after the time the return on Form 941 for such quarter is filed and the tax is paid to the district director, the overcollection may be corrected by an adjustment on the return for any subsequent quarter of the same calendar year.

(4) Every overcollection not repaid and receipted for by the employee as provided in this paragraph must be reported and paid to the district director with the return on Form 941 for the quarter in which the overcollection is made.

(5) For information as to the manner of correcting errors in withholding which cannot be adjusted in a return for a subsequent quarter of the same calendar year, employers should consult the local district director of internal revenue.

§ 406.702 *Statutory provisions; refunds; credits; and abatements.*

SEC. 1622. INCOME TAX COLLECTED AT SOURCE.

* * * * *

(f) *Refunds or credits.*

(1) *Employers.* Where there has been an overpayment of tax under this subchapter, refund or credit shall be made to the employer only to the extent that the amount of such overpayment was not deducted and withheld under this subchapter by the employer.

(2) *Employees.* For refund or credit in cases of excessive withholding, see section 322 (a).

[Sec. 1622 (f), as added by sec. 2 (a), Current Tax Payment Act 1943.]

* * * * *

SEC. 3770. AUTHORITY TO MAKE ABATEMENTS, CREDITS, AND REFUNDS.

(a) *To Taxpayers*—(1) *Assessments and collections generally.* Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner, subject to regulations prescribed by the Secretary, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected.

(2) *Assessments and collections after limitation period.* Any tax (or any interest, penalty, additional amount, or addition to such tax) assessed or paid after the expiration of the period of limitation properly applicable thereto shall be considered an overpayment and shall be credited or refunded to the taxpayer if claim therefor is filed within the period of limitation for filing such claim.

* * * * *

(4) *Credit of overpayment of one class of tax against another class of tax due.* Notwithstanding any provision of law to the contrary, the Commissioner may, in his discretion, in lieu of refunding an overpayment of tax imposed by any provision of this title, credit such overpayment against any tax due from the taxpayer under any other provision of this title.

(5) *Delegation of authority to collectors [district directors] to make refunds.* The Commissioner, with the approval of the Secretary, is authorized to delegate to collectors [district directors] any authority, duty, or function which the Commissioner is authorized or required to exercise or perform under paragraph (1), (2), (3), or (4) of this subsection, or under section 322 or 1027, where the amount involved (exclusive of interest, penalties, additions to the tax, and additional amounts) does not exceed $10,000.

* * * * *

[Sec. 3770 (a) (1), as amended by sec. 508 (b), Second Revenue Act 1940; sec. 3770 (a) (4), as added by sec. 9 (a), Pub. Law 271 (81st Cong.); and 3770 (a) (5), added as paragraph (4) by sec. 4 (c), Current Tax Payment Act 1943, and redesignated paragraph (5) and amended by sec. 9 (a), Pub. Law 271 (81st Cong.).]

* * * * *

§ 406.703 *Refund or credit of overpayments which are not adjustable; abatement of overassessments*—(a) *Who may make claims.* If more than the correct amount of tax, penalty, or interest is paid to the district director, the person who paid such tax, penalty, or interest to the district director may file a claim for refund of such overpayment or such person may take credit for the overpayment against the tax reported on any return on Form 941 which he subsequently files. However, refund or credit of the overpayment shall be made only to the extent that the amount of the overpayment exceeds the tax actually withheld, and penalty and interest thereon. If more than the correct amount of tax, penalty, or interest is assessed but not paid to the district director, the person against whom the assessment is made may file a claim for abatement of such overassessment.

(b) *Form of claims.* Each claim for refund or abatement under this section shall be made on Form 843 in accordance with the regulations in this part and the instructions relating to such form, and shall designate the tax-return period in which the error was ascertained. Copies of Form 843 may be obtained from any district director. If credit is taken under this section, a claim on Form 843 is not required, but the return on which such credit is claimed shall have attached as a part thereof a statement which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, designating the tax-return period in which the error was ascertained, and showing such other information as is required by the regulations in this part or by the instructions relating to the return.

(c) *Limitation on claims.* No refund or credit will be allowed after the expiration of the applicable statutory period of limitations, except upon one or more of the grounds set forth in a claim filed prior to the expiration of such period. For provisions relating to the period of limitation upon refunds and credits, see § 406.707.

(d) *Claims improperly made.* Any claim which does not comply with the requirements of this section will not be considered for any purpose as a claim for refund, credit, or abatement.

(e) *Proof of representative capacity.* If a return is made by an individual who thereafter dies and a refund claim is made by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is made. If an executor, administrator, guardian, trustee, receiver, or other fiduciary makes a return and thereafter a refund claim is made by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was made by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is made by a fiduciary other than the one by whom the return was made, the necessary documentary evidence should accompany the claim. The claim may be executed by the agent of the person assessed, but in such case a power of attorney must accompany the claim.

§ 406.704 *Statutory provisions; credit for tax withheld.*

SEC. 35. CREDIT FOR TAX WITHHELD ON WAGES.

The amount deducted and withheld as tax under Subchapter D of Chapter 9 during any calendar year upon the wages of any individual shall be allowed as a credit to the recipient of the income against the tax imposed by this chapter for the taxable year beginning in such calendar year. If more than one taxable year begins in any such calendar year such amount shall be allowed as a credit against the tax for the last taxable year so beginning.

[Sec. 35, as added by sec. 172 (f) (2), Revenue Act 1942, and as amended by sec. 3, Current Tax Payment Act 1943.]

SEC. 322. REFUNDS AND CREDITS.

(a) *Authorization.*

* * * * *

(2) *Excessive withholding.* Where the amount of the tax withheld at the source under Subchapter D of Chapter 9 exceeds the taxes imposed by this chapter against which the tax so withheld may be credited under section 35, the amount of such excess shall be considered an overpayment.

[Sec. 322 (a) (2), as added by sec. 172 (e) (1), Revenue Act 1942, and as amended by sec. 4 (a), Current Tax Payment Act 1943; sec. 6 (b) (9), Individual Income Tax Act 1944.]

* * * * *

§ 406.705 *Credit for tax withheld; credit or refund of overpayment of tax withheld.* (a) The credit for tax withheld at source on wages during a calendar year shall be allowed against the tax imposed by chapter 1 of the Internal Revenue Code for the taxable year of the recipient of the income which begins in such calendar year. If such recipient has more than one taxable year beginning in such calendar year, the credit shall be allowed against the tax for the last taxable year so beginning.

(b) If the tax has actually been withheld at the source, credit or refund shall be made to the recipient of the income even though such tax has not been paid over to the Government by the employer. See section 322. For the purpose of the credit, the recipient of the income is the person subject to tax imposed under chapter 1 of the Internal Revenue Code upon the wages from which the tax was withheld. For instance, if a husband and wife domiciled in a community property State make separate returns, each reporting for income tax purposes one-half of the wages received by the husband, each spouse is entitled to one-half of the credit allowable for the tax withheld at source with respect to such wages.

(c) The employee from whose wages tax has been deducted and withheld during any calendar year shall claim credit for the tax withheld on his return of tax under chapter 1 of the Code for the taxable year which begins in such calendar year and shall attach to such return the withholding statement or statements on Form W–2 furnished to him with respect to wages paid during such calendar year. If the amount of the tax withheld exceeds the tax under chapter 1 of the Code against which the tax so withheld may be credited, refund or credit of such excess will be made to the employee in accordance with the applicable provisions of the regulations prescribed under chapter 1 of the Code.

§ 406.706 *Statutory provisions; period of limitation upon refunds and credits.*

SEC. 1636. PERIOD OF LIMITATION UPON REFUNDS AND CREDITS OF CERTAIN EMPLOYMENT TAXES.

(a) *General rule.* In the case of any tax imposed by * * * subchapter D of this chapter—

(1) *Period of limitation.* Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(2) *Limit on amount of credit or refund.* The amount of the credit or refund shall not exceed the portion of the tax paid—

(A) If a return was filed, and the claim was filed within three years from the time the return was filed, during the three years immediately preceding the filing of the claim.

(B) If a claim was filed, and (i) no return was filed, or (ii) if the claim was not filed within three years from the time the return was filed, during the two years immediately preceding the filing of the claim.

(C) If no claim was filed and the allowance of credit or refund is made within three years from the time the return was filed, during the three years immediately preceding the allowance of the credit or refund.

(D) If no claim was filed, and (i) no return was filed or (ii) the allowance of the credit or refund is not made within three years from the time the return was filed, during the two years immediately preceding the allowance of the credit or refund.

(b) *Penalties, etc.* The provisions of subsection (a) of this section shall apply to any penalty or sum assessed or collected with respect to the tax imposed by * * * subchapter D of this chapter.

(c) *Date of filing return and date of payment of tax.* For the purposes of this section—

(1) If a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be considered paid on March 15 of such succeeding calendar year.

(d) *Application of section.* The provisions of this section shall apply only to those taxes imposed by * * * subchapter D of this chapter, which are required to be collected and paid by making and filing returns.

(e) *Effective date.* The provisions of this section shall not apply to any tax paid or collected with respect to remuneration paid during any calendar year before 1951 or to any penalty or sum paid or collected with respect to such tax.

[Sec. 1636, as added by sec. 207 (a), Social Security Act Amendments 1950.]

§ 406.707 *Period of limitation upon refunds and credits—*(a) *In general.* Unless a claim for refund or credit of an overpayment is filed within three years from the time the return was filed, or within two years from the time the tax was paid, the Commissioner is prohibited, after both periods have expired, from allowing or making a refund or credit of such overpayment. If no return is filed, the Commissioner is prohibited from allowing or making a refund or credit of the overpayment after two years from the time the tax was paid unless before the expiration of such two-year period a claim therefor is filed.

(b) *Limitation on amount of refund or credit.* The limitation on the amount of refund or credit shall be determined in accordance with section 1636 (a) (2)

(c) *Penalties.* The provisions of this section as to the tax required to be deducted and withheld are also applicable to any penalty or other sum assessed or collected with respect to such tax.

(d) *Date of filing return and payment of tax.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, it shall be deemed filed on March 15 of such succeeding calendar year. Likewise, if any tax required to be deducted and withheld during any period ending with or within a calendar year is paid before March 15 of the succeeding calendar year, such tax shall be deemed paid on March 15 of such succeeding calendar year.

SUBPART H—MISCELLANEOUS PROVISIONS

§ 406.800 *Statutory provisions; jeopardy assessment.*

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 3660. JEOPARDY ASSESSMENT.

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector [district director] for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3690.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector [district director] a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector [district director] deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

§ 406.801 *Jeopardy assessments.* (a) Whenever, in the opinion of the district director, the collection of the tax will be jeopardized by delay, he should report the case promptly to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the tax-return period or periods involved, the amount of tax due for each period, the date any return was filed by or for the taxpayer for such period, a reference to any prior assessment made for such period against the taxpayer, and a statement as to the reason for the recommendation, which will enable the Commissioner to assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the district director will issue immediately a notice and demand for payment of the tax, penalty, and interest.

(b) The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the district director a bond in such amount, not exceeding double the amount with respect to which the stay is desired, and with such sureties as the district director deems necessary. Such bond shall be conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the district director negotiable bonds

or notes of the United States, or negotiable bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the district director in case of default to collect or sell such bonds or notes so deposited.

(c) Upon refusal to pay, or failure to pay or give bond, the district director will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period prescribed in section 3690.

§ 406.802 *Statutory provisions; period of limitation upon assessment and collection.*

SEC. 1635. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION OF CERTAIN EMPLOYMENT TAXES.

(a) *General rule.* The amount of any tax imposed by * * * subchapter D of this chapter shall (except as otherwise provided in the following subsections of this section) be assessed within three years after the return was filed, and no proceeding in court without assessment for the collection of such tax shall be begun after the expiration of such period.

(b) *False return or no return.* In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *Willful attempt to evade tax.* In case of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(d) *Collection after assessment.* Where the assessment of any tax imposed by * * * subchapter D of this chapter has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

(e) *Date of filing of return.* For the purposes of this section, if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be considered filed on March 15 of such succeeding calendar year.

(f) *Application of section.* The provisions of this section shall apply only to those taxes imposed by * * * subchapter D of this chapter, which are required to be collected and paid by making and filing returns.

(g) *Effective date.* The provisions of this section shall not apply to any tax imposed with respect to remuneration paid during any calendar year before 1951.

[Sec. 1635, as added by sec. 207 (a), Social Security Act Amendments 1950.]

§ 406.803 *Period of limitation upon assessment and collection.* Section 1635 provides, in general, for a three-year period of limitation on the assessment of the tax required to be withheld. This period of limitation is measured from the date the return is filed, except that if a return for any period ending with or within a calendar year is filed before March 15 of the succeeding calendar year, such return shall be deemed filed on March 15 of such succeeding calendar year. For example, if quarterly returns are filed for the four quarters of 1954 on April 30, July 31, and October 31, 1954, and on January 31, 1955, the period of limitation for assessment with respect to the tax required to be reported on each such return is measured from March 15, 1955. However, if any of such returns is filed after March 15, 1955, the period of limitation for assessment of the tax required to be reported on that return is measured from the date it is in fact filed. Where the tax is assessed within the statutory period of limitation, such tax may be collected by distraint or by a proceeding in court, if begun (a) within six years after the assessment of the tax, or (b) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer. In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return, and in the case of a willful attempt in any manner to defeat or evade tax, the tax required to be reported on the return may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

§ 406.804 *Statutory provisions; collection of tax in Puerto Rico.*

SEC. 3811. COLLECTION OF TAXES IN PUERTO RICO * * *

(a) *Puerto Rico.* Notwithstanding any other provision of law respecting taxation in Puerto Rico, all taxes imposed * * * by subchapters * * * D of chapter 9, shall be collected under the direction of the Secretary and shall be paid into the Treasury of the United States as internal revenue collections. All provisions of the laws of the United States applicable to the administration, collection, and enforcement * * * of any tax imposed by subchapter * * * D of chapter 9, shall, in respect to such tax, extend to and be applicable in Puerto Rico in the same manner and to the same extent as if Puerto Rico were a State, and as if the term "United States" when used in a geographical sense included Puerto Rico.

* * * * *

(c) *Definition.* As used in this section, the term "tax" includes any penalty with respect to the tax, any addition to the tax, and any additional amount with respect to the tax, provided for by any law of the United States.

[Sec. 3811 (a), as added by sec. 208 (b), Social Security Act Amendments 1950, and as amended and redesignated as subsection (a) by sec. 221 (1), Revenue Act 1950; and sec. 3811 (c), as added by sec. 221 (1), Revenue Act 1950.]

§ 406.805 *Collection of tax in Puerto Rico.* All provisions of the laws of the United States relating to the administration, collection, and enforcement (such as the provisions relating to the ascertainment, return, determination, redetermination, assessment, collection, remission, credit, and refund) of the income tax withheld at source on wages under section 1622 shall, in respect of such tax, extend to and be applicable in Puerto Rico in the same manner and to the same extent as if Puerto Rico were a State, and as if the term "United States" when used in a geographical sense included Puerto Rico.

§ 406.806 *Statutory provisions; acts to be performed by agents.*

SEC. 1632. ACTS TO BE PERFORMED BY AGENTS.

In case a fiduciary, agent or other person has the control, receipt, custody, or disposal of, or pays the wages of an employee or group of employees, employed by one or more employers, the Commissioner, under regulations prescribed by him with the approval of the Secretary, is authorized to designate such fiduciary, agent or other person to perform such acts as are required of employers under this chapter [chapter 9 of the Internal Revenue Code] and as the Commissioner may specify. Except as may be otherwise prescribed by the Commissioner with the approval of the Secretary, all provisions of law (including penalties) applicable in respect of an employer shall be applicable to a fiduciary, agent or other person so designated but, except as so provided, the employer for whom such fiduciary, agent or other person acts shall remain subject to the provisions of law (including penalties) applicable in respect of employers.

[Sec. 1632, as added by sec. 2 (a), Current Tax Payment Act 1943.]

§ 406.807 *Acts to be performed by agents.* If an employer pays wages to an employee or group of employees through a fiduciary, agent, or other person who also has the control, receipt, custody, or disposal of, or pays the wages payable by another employer to such employee or group of employees, the Commissioner may, subject to such terms and conditions as he deems proper, authorize such fiduciary, agent, or other person to perform such acts as are required of employers under the statute and the regulations in this part. Application for authorization to perform such acts, signed by such fiduciary, agent, or other person, should be filed with the Commissioner of Internal Revenue, Washington 25, D. C. If the fiduciary, agent, or other person is authorized by the Commissioner to perform such acts as are required of employers under the statute and regulations, all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of an employer shall be applicable to such fiduciary, agent, or other person. However, each employer for whom such fiduciary, agent, or other person acts shall remain subject to all provisions of law (including penalties) and of the regulations prescribed in pursuance of law applicable in respect of employers. (See also § 406.310.)

§ 406.808 *Statutory provisions; additions to tax for failure to pay an assessment after notice and demand.*

SEC. 1420. COLLECTION AND PAYMENT OF TAXES.

* * * * *

(b) *Addition to tax in case of delinquency.* If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 1401 (c) and 1411) at the rate of 6 per centum per annum from the date the tax became due until paid.

* * * * *

SEC. 3655. NOTICE AND DEMAND FOR TAX.

(a) *Delivery.* Where it is not otherwise provided, the collector [district director] shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof.

(b) *Addition to tax for nonpayment.* If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector [district director] or his deputy to collect the said taxes with a penalty of 5 per centum additional upon the

amount of taxes, and interest at the rate of 6 per centum per annum from the date of such notice to the date of payment * * *

* * * * *

§ 406.809 *Interest.* If the tax is not paid to the district director when due and is not adjusted under § 406.701, interest accrues at the rate of 6 percent per annum.

§ 406.810 *Addition to tax for failure to pay an assessment after notice and demand.* (a) If tax, penalty, or interest is assessed and the entire amount thereof is not paid within 10 days after the date of issuance of notice and demand for payment thereof, based on such assessment, there accrues under section 3655 (except as provided in paragraph (b) of this section) a penalty of 5 percent of the assessment remaining unpaid at the expiration of such period.

(b) If, within 10 days after the date of issuance of notice and demand, a claim for abatement of any amount of the assessment is filed with the district director, the 5 percent penalty does not attach with respect to such amount. If the claim is rejected in whole or in part and the amount rejected is not paid, the district director shall issue notice and demand for such amount. If payment is not made within 10 days after the date the district director issues the notice and demand, the 5 percent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest.

§ 406.811 *Statutory provisions; additions to tax for delinquent or false returns.*

SEC. 3612. RETURNS EXECUTED BY COMMISSIONER OR COLLECTOR [DISTRICT DIRECTOR].

* * * * *

(d) *Additions to tax*—(1) *Failure to file return.* In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner or the collector [district director] in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax: *Provided,* That in the case of a failure to make and file a return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

(2) *Fraud.* In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

* * * * *

(e) *Collection of additions to tax.* The amount added to any tax under paragraphs (1) and (2) of subsection (d) shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

* * * * *

SEC. 1631. FAILURE OF EMPLOYER TO FILE RETURN.

In case of a failure to make and file any return required under this chapter within the time prescribed by law or prescribed by the Commissioner in pursuance of law, unless it is shown that such failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5.

[Sec. 1631, as added by sec. 2 (a), Current Tax Payment Act 1943, and as amended by sec. 6, Pub. Law 271 (81st Cong.); sec. 209 (d), Social Security Act Amendments 1950.]

§ 406.812 *Additions to tax for delinquent or false returns*—(a) *Delinquent returns*—(1) *Ad valorem addition.* (i) If a person fails to make and file a return required by the regulations in this part within the prescribed time, a certain percent of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the prescribed time is shown to be due to reasonable cause and not to willful neglect. Two classes of delinquents are subject to this addition to the tax:

(*a*) Those who do not file returns and for whom returns are made by a district director, an internal revenue agent, or the Commissioner; and

(*b*) Those who file tardy returns and are unable to show reasonable cause for the delay.

The amount to be added to the tax is 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate, subject, however, to the minimum addition to the tax set forth in subparagraph (2) of this paragraph. In computing the period of delinquency all Sundays and holidays after the due date are counted.

(ii) A person who files a tardy return and wishes to avoid the addition to the tax for delinquency must make an affirmative showing of all facts alleged as a reasonable cause for failure to file the return on time in the form of a statement which should be attached to the return as a part thereof.

(2) *Minimum addition.* If a person fails to make and file a return required by the regulations in this part within the prescribed time, unless it is shown that the failure is due to reasonable cause and not to willful neglect, the addition to the tax or taxes required to be shown on such return shall not be less than $5. The addition to the tax or taxes shall be computed as provided in subparagraph (1) of this paragraph, and if less than $5 shall be increased to $5.

(b) *False returns.* If a false or fraudulent return is willfully made, the addition to tax under section 3612 (d) (2) is 50 percent of the total tax due for the entire period involved, including any tax previously paid.

§ 406.813 *Statutory provisions; penalties.*

SEC. 2707. PENALTIES.

(a) Any person who willfully fails to pay, collect, or truthfully account for and pay over the tax * * * or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subsection for any offense for which a penalty may be assessed under authority of section 3612.

(b) Any person required under this subchapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this subchapter who willfully fails to pay such tax, make such returns, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person required under this subchapter to collect, account for and pay over any tax imposed by this subchapter, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this subchapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 3616. PENALTIES.

Whenever any person—

(a) *False returns.* Delivers or discloses to the collector [district director] or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made; or,

(b) *Neglect to obey summons.* Being duly summoned to appear to testify, or to appear and produce books as required under section 3615, neglects to appear or to produce said books—

he shall be fined not exceeding $1,000, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

* * * * *

SEC. 3793. PENALTIES AND FORFEITURES.

* * * * *

(b) *Fraudulent returns, affidavits, and claims*—(1) *Assistance in preparation or presentation.* Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony, and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(2) *Person defined.* The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to

perform the act in respect of which the violation occurs.

* * * * *

SEC. 286. CONSPIRACY TO DEFRAUD THE GOVERNMENT WITH RESPECT TO CLAIMS [TITLE 18, UNITED STATES CODE].

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SEC. 287. FALSE, FICTITIOUS, OR FRAUDULENT CLAIMS [TITLE 18, UNITED STATES CODE].

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 1001. STATEMENTS OR ENTRIES GENERALLY [TITLE 18, UNITED STATES CODE].

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 1621. PERJURY GENERALLY [TITLE 18, UNITED STATES CODE].

Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both.

SEC. 1627. OTHER LAWS APPLICABLE.

All provisions of law, including penalties, applicable with respect to the tax imposed by section 1400 shall, insofar as applicable and not inconsistent with the provisions of this subchapter [subchapter D of chapter 9], be applicable with respect to the tax under this subchapter.

[Sec. 1627, as added by sec. 2 (a), Current Tax Payment Act 1943.]

SEC. 1429. RULES AND REGULATIONS.

* * * The Commissioner, with the approval of the Secretary, shall make and publish rules and regulations for the enforcement of this subchapter.

SEC. 3791. RULES AND REGULATIONS.

(a) *Authorization*—(1) *In general.* * * * the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title [Internal Revenue Code].

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

§ 406.814 *Promulgation of regulations.* In pursuance of sections 1429, 1627, and 3791 of the Internal Revenue Code, and other provisions of the internal revenue laws, the foregoing regulations are hereby prescribed.

[F. R. Doc. 53-8659; Filed, Oct. 9, 1953; 8:50 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MONTANA

STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 4, REDUCED

SEPTEMBER 30, 1953.

Pursuant to the authority delegated by the Director, Bureau of Land Management in section 2.22 (a) (1) of Order No. 427 dated August 16, 1950 (15 F. R. 5639), it is ordered as follows:

Subject to valid rights and the provisions of existing withdrawals, the Departmental Order of March 18, 1918, and modified July 16, 1923, establishing Stock Driveway Withdrawal No. 11, Montana No. 4, under section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U. S. C. 300), is hereby revoked so far as it affects the following described land:

MONTANA PRINCIPAL MERIDIAN

T. 8 S., R. 7 W.,
Sec. 14: SE¼NE¼, E½SE¼,
Sec. 23: NE¼NE¼.

The area described aggregates 160 acres.

This land is rough grazing land, and due to its topography, vegetative cover and soil characteristics is not suitable for crop production. The land is classified as primarily suitable for grazing purposes only.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Montana Land Office, Billings, Montana, and shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regula-

tions contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager of the Montana Land Office, Billings, Montana.

W B. WALLACE,
Regional Administrator.

[F. R. Doc. 53-8653; Filed, Oct. 9, 1953; 8:48 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53351]

PORTUGUESE COLONY OF TIMOR

ADDITION TO "NO CONSUL" LIST

OCTOBER 6, 1953.

In accordance with a recommendation from the Department of State, the Portuguese Colony of Timor is hereby added to the "No Consul" list (1950), T. D. 52407, as amended.

Under the provisions of section 482 (f) Tariff Act of 1930 (19 U. S. C. 1482 (f)) an invoice for merchandise from the above-named place on foreign service form 138 or, in lieu thereof, a commercial invoice containing the information required by section 481, Tariff Act of 1930 (19 U. S. C. 1481) may be accepted if certified by a consular officer of a nation at the time amity with the United States. If no such consular officer is available, the invoice shall be executed before a notary public or other officer having an official seal.

[SEAL] C. A. EMERICK,
Acting Commissioner of Customs.

[F. R. Doc. 53-8656; Filed, Oct. 9, 1953; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

CIGAR-FILLER (TYPE 41) AND CIGAR-FILLER AND BINDER (TYPES 42-55) TOBACCO

MARKETING QUOTA REFERENDUM

The Secretary of Agriculture has duly proclaimed, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, a national marketing quota for cigar-filler tobacco and a national marketing quota for cigar-filler and binder tobacco for the marketing year beginning October 1, 1954. A referendum of farmers who were engaged in the production of the 1953 crop of cigar-filler tobacco and a referendum of farmers who were engaged in the production of the 1953 crop of cigar-filler and binder tobacco will be held pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, and applicable regulations, to determine whether such farmers are in favor of or opposed to such quotas and to determine whether such farmers are in favor of or opposed to cigar-filler and cigar-filler and binder tobacco marketing quotas for the three-year period beginning October 1, 1954.

Registration. The operator on each farm on which cigar-filler or cigar-filler and binder tobacco was produced in 1953 should inform his county PMA office of the names and addresses of all persons sharing in the proceeds of such crop in order that their names may be listed on the register of eligible voters. The eligibility to vote of any person may be challenged if his name is not recorded on the registration list.

Eligibility to vote. 1. All persons engaged in the production of the 1953 crop of cigar-filler tobacco are eligible to vote in the cigar-filler tobacco marketing quota referendum and farmers who were engaged in the production of the 1953 crop of cigar-filler and binder tobacco are eligible to vote in the cigar-filler and binder tobacco marketing quota referendum Any person who shares in the proceeds of the 1953 crop of cigar-filler or cigar-filler and binder tobacco as owner (other than a landlord of a standing-rent or fixed-rent tenant) tenant, or share cropper, is considered as engaged in the production of such crop of tobacco in 1953.

2. If several members of the same family participate in the production of the 1953 crop of cigar-filler or cigar-filler and binder tobacco on a farm, the only member or members of such family who shall be eligible to vote shall be the member or members of the family who have an independent bona fide status as operator, share tenant, or share cropper, and are entitled as such to share in the proceeds of the 1953 crop.

3. No person shall be eligible to vote in any community other than the community in which he resides except as follows:

(a) Any person who resides in a community in which there is no polling place shall be eligible to vote at the polling place designated for the community nearest to the community in which he was engaged in the production of cigar-filler or cigar-filler and binder tobacco in 1953.

(b) Any person who does not reside in or who will not be present in the county in which he engaged in the production of cigar-filler or cigar-filler and binder tobacco in 1953 may obtain a ballot at the most conveniently located polling place and may cast his ballot by signing his name thereto and mailing it to the office of the county committee in which he is engaged in the production of tobacco in 1953 not later than the date of the referendum.

4. There shall be no voting by mail (except as provided in par. 3 above) by proxy or by agent, but a duly authorized officer of a corporation, association, or other legal entity, or a duly authorized member of a partnership, may cast its vote.

5. Persons who planted tobacco in the field in 1953 but did not harvest any tobacco on such acreage for any reason except neglect to farm the planted acreage shall be regarded as engaged in the production of tobacco in 1953 and therefore eligible to vote in the referendum. Any farmer who did not plant tobacco in the field shall not be eligible to vote.

6. No person (whether an individual, partnership, corporation, association or other legal entity) shall be entitled to more than one vote in the referendum even though he may have been engaged in the production of tobacco on several farms in the same or in two or more communities, counties, or States in 1953

7. In the event two or more persons were engaged in producing tobacco in 1953 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person shall be eligible to vote.

Time and place for balloting. The cigar-filler tobacco and the cigar-filler and binder tobacco marketing quota referenda will be held on Thursday, October 29, 1953. The place of voting and the hours which the polls will be open for voting in each community will be announced by the County PMA Committee.

Done at Washington, D. C., this 7th day of October 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EZRA TAFT BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-8661; Filed, Oct. 9, 1953; 8:50 a. m.]

MARYLAND TOBACCO

MARKETING QUOTA REFERENDUM

The Secretary of Agriculture has duly proclaimed, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, a national marketing quota for Maryland tobacco for the marketing year beginning October 1, 1954. A referendum of farmers who were engaged in the production of the 1953 crop of Maryland tobacco will be held pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended, and applicable regulations, to determine whether such farmers are in favor of or opposed to such quota and to determine whether such farmers are in favor of or opposed to Maryland tobacco marketing quotas for the 3-year period beginning October 1, 1954.

Registration. The operator on each farm on which Maryland tobacco was produced in 1953 should inform his county PMA office of the names and addresses of all persons sharing in the proceeds of such crop in order that their names may be listed on the register of eligible voters. The eligibility to vote of any person may be challenged if his name is not recorded on the registration list.

Eligibility to vote. All persons engaged in the production of the 1953 crop of Maryland tobacco are eligible to vote in the referendum. Any person who shares in the proceeds of the 1953 crop of Maryland tobacco as owner (other than a landlord of a standing-rent or fixed-rent tenant) tenant, or share cropper, is considered as engaged in the production of such crop of tobacco in 1953.

2. If several members of the same family participate in the production of the 1953 crop of Maryland tobacco on a farm, the only member or members of such family who shall be eligible to vote shall be the member or members of the family who have an independent bona

fide status as operator, share tenant, or share cropper, and are entitled as such to share in the proceeds of the 1953 crop.

3. No person shall be eligible to vote in any community other than the community in which he resides except as follows:

(a) Any person who resides in a community in which there is no polling place shall be eligible to vote at the polling place designated for the community nearest to the community in which he was engaged in the production of Maryland tobacco in 1953.

(b) Any person who does not reside in or who will not be present in the county in which he engaged in the production of Maryland tobacco in 1953 may obtain a ballot at the most conveniently located county committee office and may cast his ballot by signing his name thereto and mailing it so that the ballot reaches the county committee for the county in which he engaged in the production of tobacco in 1953 not later than the closing hour on the date of the referendum.

4. There shall be no voting by mail (except as provided in par. 3 above), by proxy, or by agent, but a duly authorized officer of a corporation, association, or other legal entity or a duly authorized member of a partnership, may cast its vote.

5. Persons who planted tobacco in the field in 1953 but did not harvest any tobacco on such acreage for any reason except neglect to farm the planted acreage shall be regarded as engaged in the production of tobacco in 1953 and therefore eligible to vote in the referendum. Any farmer who did not plant tobacco in the field shall not be eligible to vote.

6. No person (whether an individual, partnership, corporation, association, or other legal entity) shall be entitled to more than one vote in the referendum even though he may have been engaged in the production of tobacco on several farms in the same or in two or more communities, counties, or States in 1953.

7. In the event two or more persons were engaged in producing tobacco in 1953 not as members of a partnership but as tenants in common or joint tenants or as owners of community property, each such person shall be eligible to vote.

Time and place for balloting. The Maryland tobacco marketing quota referendum will be held on Thursday, October 29, 1953. The place of voting and the hours which the polls will be open for voting in each community will be announced by the County PMA Committee.

Done at Washington, D. C., this 7th day of October 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] EZRA TAFT BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-8664; Filed, Oct. 9, 1953; 8:51 a. m.]

DEPARTMENT OF COMMERCE

National Production Authority

ABOLISHMENT

CROSS REFERENCE: For the abolishment of the National Production Authority, see section 9 (b) of F. R. Doc. 53-8637, Office of the Secretary, Department of Commerce, *infra*.

Office of the Secretary

BUSINESS AND DEFENSE SERVICES ADMINISTRATION

ORGANIZATION AND FUNCTIONS

1. *Purpose.* The purpose of this notice is to establish the Business and Defense Services Administration within the Department of Commerce and define its authority, organization and functions.

2. *Establishment and organization.* Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, there is hereby established as a primary organization unit of the Department of Commerce the Business and Defense Services Administration in furtherance of the Department's statutory responsibility to foster, promote and develop commerce and industry. The Business and Defense Services Administration shall be under the authority and supervision of the Assistant Secretary for Domestic Affairs and shall be directed by an Administrator who shall be appointed by the Secretary and who shall report and be responsible to the Assistant Secretary.

The Business and Defense Services Administration shall consist of the following organization units:

(a) Office of the Administrator, including:
(1) Deputy Administrator.
(2) Assistant Administrators.
(3) Assistant Deputy Administrator.
(i) Special Services Staff.
(ii) Administrative Staff.
(4) Staff offices, including:
(i) Office of Technical Services.
(ii) Office of Small Business.
(iii) Office of Distribution.
(b) Industry Divisions, including:
(1) Agricultural, Construction and Mining Equipment.
(2) Aluminum and Magnesium.
(3) Automotive.
(4) Building Materials and Construction.
(5) Business Machines and Office Equipment.
(6) Chemical and Rubber.
(7) Communications Equipment.
(8) Consumer Durable Goods.
(9) Containers and Packaging.
(10) Copper.
(11) Electrical Equipment.
(12) Electronics.
(13) Food Industries.
(14) Forest Products.
(15) General Components.
(16) General Industrial Equipment.
(17) Iron and Steel.
(18) Leather, Shoes and Allied Products.
(19) Metalworking Equipment.
(20) Miscellaneous Metals and Minerals.
(21) Power Equipment.
(22) Scientific, Motion Picture and Photographic Products.
(23) Shipbuilding, Railroad, Ordnance and Aircraft.
(24) Textiles and Clothing.
(25) Water and Sewage Industries and Utilities.
(c) Office of Field Services.

3. *Delegation of authority.* Subject to such policies and directions as the Secretary of Commerce may prescribe, the Administrator of the Business and Defense Services Administration shall perform the functions and exercise the power and authorities relating to industry and trade of the United States vested in the Secretary of Commerce by the act of February 14, 1903 (32 Stat. 826) as amended, and shall exercise the authority delegated to the Secretary of Commerce under the Defense Production Act of 1950, as amended and extended, except the functions and authorities vested in the Secretary of Commerce with respect to the use of transportation facilities and in connection with the creation of new agencies within the Department of Commerce. In addition the Administrator shall perform the functions and exercise the authorities vested in the Secretary of Commerce under the Rubber Act of 1948, as amended by Executive Order 9942 of April 1, 1948.

The Administrator of the Business and Defense Services Administration may redelegate any power or authority conferred on him by this notice to any officer of the Business and Defense Services Administration and he may authorize such redelegations by such officer as he may deem appropriate.

4. *General functions and objectives.* The general functions and objectives of the Business and Defense Services Administration, consistant with the scope and authority conferred on the Secretary of Commerce by or pursuant to law, shall be to:

(a) Assure the achievement of military and atomic energy programs by channeling, where necessary, the materials and products required therefor in accordance with the provisions of the Defense Production Act of 1950, as amended;

(b) Insure the development of practical mobilization programs by ascertaining the production potential of the industrial economy as related to materials, products and facilities for defense supporting and essential civilian needs, for which the Department of Commerce is the cognizant agency;

(c) Provide the framework for the integration of defense production and mobilization programs with industry's long-range plans for maintaining civilian production and employment on a sound basis;

(d) Provide a nucleus organization capable of rapid expansion as an operating agency for administration of production and materials controls in the event of a future emergency;

(e) Foster the transition from emergency mobilization efforts to the operations of a free enterprise system;

(f) Except as otherwise provided by law or Executive Order, establish the Business and Defense Services Administration as the logical point in Government for representation of the domestic interests of business and industry in their relations with other governmental agencies;

(g) Provide other departments and agencies of the Executive Branch and the Congress with required information and judgment concerning the viewpoints and interests of business and industry;

(h) Cooperate in assuring consideration of the domestic needs of small business enterprises with the view to strengthening their position in the national economy;

(i) Obtain the views and advice of business through the establishment of, and consultation with, industry councils and industry advisory committees, and through cooperation with trade associations;

(j) Encourage efficient and effective domestic distribution of goods and services to further the expansion of domestic markets necessary for optimum utilization of the Nation's productive capacity;

(k) Act as a clearing house for Government technological information of interest to business and assist industry in the voluntary standardization of products; and

(l) Cooperate with other agencies of Government in programs to achieve economic stability and growth and with industry in the development of industrial and business programs having as their purpose a sound, prosperous and expanding economy.

5. *Functions of the Office of the Administrator.* (a) The Administrator shall determine, develop and coordinate policies and programs and direct all operations of the Business and Defense Services Administration. To achieve a proper balance between the foreign and domestic responsibilities of the Department of Commerce, the Administrator shall, however, consult and collaborate with the Assistant Secretary for International Affairs. The Administrator shall also assist the Bureau of Foreign Commerce in carrying out its policies and service to business programs for the promotion of United States international trade and investment.

(b) The Deputy Administrator shall be the chief operating aide to the Administrator and assist in the direction of the operations of the Administration and perform other duties assigned by the Administrator.

(c) The Assistant Administrators shall recommend to and advise with the Administrator and the Assistant Secretaries of Commerce on policies and programs and advise on the practical application of such programs and policies to the operation of the Administration. They shall provide the Administration with the point of view of industry in general and the point of view of specific industries represented by the Industry Divisions in their assigned areas.

(d) The Assistant Deputy Administrator shall assist the Administrator, Deputy Administrator, and the Assistant Administrators in the performance of staff and administrative functions, and shall perform such other duties as assigned by the Administrator. He shall secure all administrative services for the Administration through the offices reporting to the Assistant Secretary of Commerce for Administration.

6. *Functions of staff offices.* (a) The staff offices described below shall cooperate and work in conjunction with Industry Divisions in areas of mutual interest and shall furnish such technical staff service as may be required by individual Industry Divisions to carry out assigned responsibilities.

(b) The Office of Technical Services shall work with and assist State planning and development groups, and regional and local area development agencies in studying the economic problems and potentialities of an area as a whole and in developing programs for making greater use of local resources and expanding the industry and commerce of the area by making the data, skills and experience of the Department available to such organizations; assist industries to develop and agree upon commercial standards as to quality, testing, and ratings; collect and compile scientific and technical information on technological productivity for dissemination to business enterprises; shall serve as the point of contact with trade associations and other non-profit trade groups for the purpose of encouraging their cooperation and obtaining recommendations with respect to the domestic commerce programs and activities of the Department; and bring to the attention of American inventors, in cooperation with the National Inventors Council and representatives of the Department of Defense and such other Federal agencies as may wish representation, the technical problems of Government groups.

(c) The Office of Small Business shall act as advisor to the Administrator and other officials of the Department on small business aspects and interests involved in the programs and operations of the Department. Among other functions it shall participate in mobilization planning carried on by the Business and Defense Services Administration for the purpose of insuring proper consideration of small concerns; and review existing and proposed publications of the Business and Defense Services Administration with respect to their impact on small business. It shall be the focal point in the Department for liaison with the Small Business Administration.

(d) The Office of Distribution shall provide a focal point within the Department of Commerce for the retail, wholesale and service trades, and for all others engaged in the domestic distribution of goods and services; collect, analyze and disseminate information on domestic market characteristics and potentials by industry and geographical areas; cooperate with other data collection agencies for the development of effective programs for the exchange of marketing information, and advise on policy issues affecting the domestic distribution and service trades, and the impact of current or proposed marketing laws and regulations upon the effective operation of such distribution activities.

7. *Functions of the Industry Divisions.* (a) Each Industry Division of the Business and Defense Services Administration is assigned functions and responsibilities with respect to individual or related segments of American domestic industry.

(b) The Industry Divisions shall initiate policy and program proposals affecting their respective areas of operations for submission to and consideration and decision by the Administrator.

(c) The functions of the Industry Divisions relating to defense production and mobilization readiness shall be carried out in accordance with operating functions delegated to the Secretary of Commerce under the Defense Production Act of 1950, as amended, and by the Director of the Office of Defense Mobilization.

(d) The Industry Divisions shall cooperate with other organizations of the Department of Commerce, other governmental agencies and business and industry in developing programs of practical value to the business and industrial communities so as to foster a common understanding of the problems of Government and business.

(e) More specifically, the Industry Divisions shall perform the following functions as prescribed by the Administrator:

(1) Defense production activities:

(i) Administer the Defense Materials System and take related actions in support of military and atomic energy programs,

(ii) Review and make recommendations to the Office of Defense Mobilization on expansion goals, tax amortization, and domestic loan applications, and

(iii) Make recommendations on the stockpiling or the disposal of stockpiled strategic materials and equipment in relation to industrial requirements to avoid any adverse effects on the national economy;

(2) Mobilization preparedness activities:

(i) Participate in the development of the Government's Mobilization Base Program for the provision of adequate industrial facilities in the event of national emergency.

(ii) Provide the mobilization authorities with basic data for use in the identification and rating of facilities to be protected against the possibilities of enemy damage, and

(iii) Provide assistance to the Office of Defense Mobilization in regard to participation with industry in post-attack planning;

(3) Business services activities:

(i) In furtherance of economic stability and growth, provide information and recommend to the Administrator and the Assistant Secretary for Domestic Affairs policies designed to promote industrial expansion and business progress for their guidance in the determination of policy and in the presentation of business opinion and advice to the Executive and Legislative Branches.

(ii) Collect, analyze and disseminate information on the condition and levels of business activity in specific industries and trades pertinent to the production and marketing of industrial commodities and resources for governmental purposes and as a service to business and trade groups.

(iii) Evaluate policies, plans activities and orders of the Department of Commerce, as well as existing and proposed

legislation affecting business, from the standpoint of the workability of these measures in everyday business and industrial operation and report to the Administrator and the Assistant Secretary for Domestic Affairs,

(iv) Assess the impact of Government operations insofar as they impinge on the interests of private business and report such assessments to the Administrator and to the Assistant Secretary for Domestic Affairs, and

(v) Assist domestic business in its relations with other departments and agencies of the Government.

8. *Functions of the Office of Field Services.* The Office of Field Services shall carry out the field programs of the Business and Defense Services Administration. It shall also carry out the field programs of the Bureau of Foreign Commerce and such other bureaus and organizational units of the Department as the Secretary of Commerce may direct. Through departmental field and cooperative offices, the Office of Field Services shall make the Department's services and facilities readily available to the business community, and shall serve to establish and maintain on a local level the Department's relationship to the business community.

9. *Transfer provisions.* (a) There are hereby transferred to the Business and Defense Services Administration the functions and responsibilities of: (1) The Office of Field Service from the Office of the Assistant Secretary of Commerce for Administration; (2) the Office of Technical Services; (3) the Office of Distribution; (4) the Office of Industry and Commerce, which are hereby assigned to the Office of Technical Services; and (5) the Industry Evaluation Board, as continued by Executive Order 10421 of December 31, 1952.

(b) The National Production Authority is hereby abolished.

(c) The Assistant Secretary of Commerce for Administration, acting through appropriate offices of the Department, shall determine and arrange for the proper transfer of personnel, funds, records and equipment of the units referred to in 9 (a) and 9 (b) above.

10. *Effect on previous orders and issuances.* (a) The following Federal Register notices are superseded: 14 F R. 6450–6451, 15 F. R. 3594–3595; 15 F. R. 4752–4753; 16 F. R. 6585; 17 F R. 4305–4308; 18 F R. 521, 18 F. R. 1216.

(b) All rules, regulations, orders, certificates, directives, delegations, and other official actions issued by or relating to the National Production Authority, any official thereof, or the units referred to in 9 (a) above shall remain in effect until amended or revoked by proper authority. Any reference in any rule, regulation, order, certificate or other official action to those organizations shall, where required, be deemed to refer to the Business and Defense Services Administration.

Effective date: October 1, 1953.

[SEAL] SINCLAIR WEEKS,
Secretary of Commerce.

[F. R. Doc. 53–8637; Filed, Oct. 9, 1953; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E–6182]

PACIFIC GAS AND ELECTRIC CO.

ORDER POSTPONING DATE FOR ORAL ARGUMENT

By order issued September 21, 1953, the Commission ordered reargument in the above-entitled matter on October 12, 1953, particularly with respect to certain questions set forth in the order. Pacific Gas and Electric Company by petition filed October 5, 1953, asks for postponement of reargument to a date approximately four weeks later, to allow further time for preparation. Neither counsel for Sierra Pacific Power Company nor for the Staff oppose the requested postponement.

The Commission orders: The date for reargument in the above-entitled matter be and it is hereby postponed from October 12, 1953, to November 10, 1953, at 10:00 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, at 441 G Street NW., Washington, D. C.

Adopted: October 6, 1953.

Issued: October 6, 1953.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53–8639; Filed, Oct. 9, 1953; 8:46 a. m.]

[Docket No. G–2217]

NORTHERN NATURAL GAS CO.

NOTICE OF CONTINUANCE OF HEARING

OCTOBER 6, 1953.

Notice is hereby given that the hearing, now scheduled to commence on October 19, 1953, is continued to 10:00 a. m., e. s. t., October 26, 1953, in the Commission's Hearing Room, 441 G Street NW., Washington, D. C., and the date on which proposed written testimony and exhibits are to be served is extended from October 12, 1953, to October 19, 1953.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53–8638; Filed, Oct. 9, 1953; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28530]

SAND AND GRAVEL FROM NEW YORK, NEW JERSEY AND PENNSYLVANIA TO THE SOUTHWEST

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedules listed below.

Commodities involved: Sand and gravel, carloads.

From: Points in New York, New Jersey, and Pennsylvania.

To: Points in the Southwest.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 3912, supp. 209; F. C. Krantzmeir, Agent, tariff I. C. C. No. 3899, supp. 162; F. C. Kratzmeir, Agent, tariff I. C. C. No. 3919, supp. 187; F. C. Kratzmeir, Agent, tariff I. C. C. No. 4053, supp 22; F. C. Kratzmeir, Agent, tariff I. C. C. No. 4049, supp 19.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53–8645; Filed, Oct. 9, 1953; 8:47 a. m.]

[4th Sec. Application 28531]

LATEX FROM BATON ROUGE AND NORTH BATON ROUGE, LA., TO SOUTHERN, OFFICIAL, ILLINOIS AND WESTERN TRUNK-LINE TERRITORIES

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedules listed below.

Commodities involved: Latex (liquid crude rubber), carloads.

From: Baton Rouge and North Baton Rouge, La.

To: Points in southern, official, Illinois, and western trunk-line territories.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short-line distance formula, additional routes and destinations.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1167, supp. 99; W. P. Emerson, Jr., Agent, tariff I. C. C. No. 412, supp. 8; W. P. Emerson, Jr., Agent, tariff I. C. C. No. 417, supp. 30.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by

the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8646; Filed, Oct. 9, 1953; 8:47 a. m.]

[4th Sec. Application 28532]

VEGETABLES FROM FLORIDA TO CANADA

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Cabbage, celery, and tomatoes, carloads.

From: Points in Florida.

To: Calgary, Edmonton, Medicine Hat, Alta, Brandon, and Winnipeg, Man., Moose Jaw, Prince Albert, Regina, Saskatoon, and Yorkton, Sask.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1195, supp. 56.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, many be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8647; Filed, Oct. 9, 1953; 8:47 a. m.]

[4th Sec. Application 28533]

SCRAP IRON FROM THE SOUTH TO PHILADELPHIA, EDDYSTONE, AND ODENWELDER, PA.

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Scrap iron or steel, carloads.

From: Points in southern territory.

To: Philadelphia, Eddystone, and Odenwelder, Pa.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, to apply rates constructed on the basis of the short-line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, tariff I. C. C. No. 1329, supp. 16.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-8648; Filed, Oct. 9, 1953; 8:48 a. m.]

[4th Sec. Application 28534]

PHOSPHATE ROCK FROM FLORIDA TO DAYTON AND MIDDLETOWN, OHIO

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for the Atlantic Coast Line Railroad Company and other carriers.

Commodities involved: Phosphate rock, carloads.

From: Points in Florida.

To: Dayton and Middletown, Ohio.

Grounds for relief: Competition with rail carriers, circuitous routes, additional routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8649; Filed, Oct. 9, 1953; 8:48 a. m.]

[4th Sec. Application 28535]

SUGAR FROM RICHMOND, VA., TO GOLDSBORO, N. C.

APPLICATION FOR RELIEF

OCTOBER 7, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for the Atlantic and East Carolina Railway Company and other carriers.

Commodities involved: Sugar, carloads.

From: Richmond, Va.

To: Goldsboro, N. C.

Grounds for relief: Competition with rail carriers, circuitous routes.

Schedules filed containing proposed rates: W P Emerson, Jr., Agent, tariff I. C. C. No. 380, supp. 188.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-8650; Filed, Oct. 9, 1953; 8:48 a. m.]